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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 04-CR-911  
-against- : United States Courthouse  
ALPHONSE T. PERSICO and : Central Islip, New York  
JOHN J. DeROSS, :  
Defendants. : November 27, 2007  
-----X 10:00 a.m.

TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE JOANNA SEYBERT  
UNITED STATES DISTRICT COURT JUDGE, and a Jury

APPEARANCES:

For the Government:

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One Pierrepont Plaza  
Brooklyn, New York 11201  
BY: JOHN BURETTA, ESQ.  
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DEBORAH MAYER, ESQ.

For the Defense:

- For Persico SARITA KEDIA, ESQ.  
JULIE JONES, ESQ.  
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- For DeRoss LaRUSSO & CONWAY, ESQS.  
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BY: ROBERT P. LaRUSSO, ESQ.

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Proceedings recorded by mechanical stenography  
Transcript produced by Computer

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1                             (The following took place at 10:09 a.m.)

2                             THE COURT: We're waiting for jurors. And once  
3 they arrive, we'll begin.

4                             I should indicate to you that I have received  
5 Ms. Kedia's letter. And the government, according to the  
6 defendant is bending the dates of the conspiracy and  
7 certain testimony because the defendants continue their  
8 defense that Mr. Persico and Mr. DeRoss could not have met  
9 each other during the time period that has been alleged in  
10 the indictment.

11                          Do you want to respond to that briefly?

12                          MR. BURETTA: Just briefly, judge. The cases  
13 are clear that it is a *reasonable approximation*.

14                          So I have never had a trial where we were ever  
15 bound specifically by the date range in there. It would  
16 have to be pretty far afield to be a constructive  
17 amendment. But in any case, I think that the motion, and  
18 certainly a decision on it is premature at this point. We  
19 have to see the evidence. And we can have arguments about  
20 whether certain positions are precluded or not on the part  
21 of the government. And that could be addressed in the  
22 instruction that the Court gives to the jury at the end,  
23 if necessary.

24                          But I haven't had a chance to do anything beyond  
25 that. That is my preliminary comment.

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1                   MS. KEDIA: Your Honor, I am sure that the  
2 government will respond in time. But I am not actually  
3 certain that it intends to introduce evidence that there  
4 was a period of time when Mr. Persico and Mr. DeRoss were  
5 incarcerated together.

6                   But it is marked, certainly in the exhibits,  
7 Bureau of Prison documents, that indicate that. So I  
8 wanted to file this motion.

9                   While yes, the case law does say *reasonable*  
10 *approximation*. We understand that it can go into April,  
11 which this witness will testify that a conspiracy was  
12 formed in April or May, as opposed to simply May, which is  
13 what is alleged in the indictment.

14                  But changing the theory, which is what the  
15 government would be doing by alleging now a different time  
16 span in February when the two were incarcerated together.

17                  What happened in the first trial; the government  
18 put on the witnesses to say that these two were in the  
19 courtroom, in Judge Raggi's courtroom together. And that  
20 is when the conspiracy must have been formed.

21                  That is clearly the theory which was presented  
22 in the case during the last trial, as well as to the Grand  
23 Jury. It can't expand that theory. And that is the  
24 problem with the February situation.

25                  THE COURT: Yesterday I turned over to defense,

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1       counsel subpoenaed phone records in terms of phones. You  
2       have turned those over to the government?

3                 MS. KEDIA: I have, Judge. I have turned those  
4       over as well as I have a copy for the Court. And a copy  
5       of various other documents that I may use during the  
6       cross-examination of this witness.

7                 THE COURT: With regard to your ex parte  
8       application on certain documents, I don't believe this one  
9       was ex parte, but the fire department records. Those you  
10      have got, Mr. LaRusso?

11                MR. LaRUSSO: Mr. -- has, Judge. I haven't made  
12      a copy and turned it over. It is basically a printout of  
13      what happened on the 16th.

14                MR. BURETTA: We have received a copy.

15                MR. LaRUSSO: They have got it. All taken care  
16      of. Thank you.

17                THE COURT: There are another group of  
18      documents. Of course at this time Mr. Floridia is on the  
19      stand, and I don't think there is any reason not to  
20      disclose it at this point.

21                Mr. LaRusso, you have requested a number of  
22      documents regarding Mr. Floridia's prior arrest history,  
23      and so forth.

24                There is only one that could be possibly  
25      relevant. And that involves a domestic dispute.

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1 MS. MAYER: Judge, if I may?

2 In the last trial we did an in limine motion.

3 And Judge Johnson ruled on the issue. He did an in limine  
4 motion, after disclosing that Mr. Floridia did have a  
5 domestic violence incident with his wife.

6 And Judge Johnson ruled in light of the others,  
7 Mr. Floridia's cross-examination material, it would be  
8 unduly prejudicial. And he precluded any reference to it  
9 in cross-examining Mr. Floridia.

10 We're asking for the same thing, Judge.

11 MR. LaRUSSO: Judge Johnson was not aware of the  
12 reasons why the domestic violence incident was relevant to  
13 the credibility of Mr. Floridia.

14 We were unaware that, at the last trial in terms  
15 of the dates of the incident and the response Mr. Floridia  
16 made to the assault on his wife, to argue that. Because  
17 it was before Judge Johnson, and he ruled that it  
18 shouldn't be admissible, is really not relevant at this  
19 point. Because we have a whole set of circumstances that  
20 are different, Judge, in terms of why this information is  
21 admissible in terms of attacking Mr. Floridia's  
22 credibility.

23 MS. KEDIA: May I just add one thing, your  
24 Honor, to that?

25 The point is not that it was a domestic violence

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1       arrest, as I believe we made clear during our sidebar  
2       conference yesterday. That is not the point. And in fact  
3       we could even stay away from the fact that it was related  
4       to domestic violence.

5                 The point is; that he was being charged with a  
6       crime. And that is the reason that he fled, as opposed to  
7       his alleged fear of DeMartino. And if the Court wants to  
8       preclude us from specifically talking about abusing his  
9       wife, in light of the prior ruling, that is something that  
10      certainly we can abide by.

11               But the fact of an impending arrest is something  
12      that we should be permitted to bring out, given the fact  
13      that this witness, he testifies in a contradictory fashion  
14      that he ran away because of the fear of Mr. DeMartino.

15               MS. MAYER: If that's -- if it is limited to  
16      just the fact that there might be another motivation,  
17      obviously there is no objection. That is fair  
18      cross-examination.

19               But what I would like -- the Court consistently  
20      made its rulings, and then it's: Oops, I'm sorry, in  
21      front of the jury. And it is unduly prejudicial in this  
22      kind of incidence. This is 403.

23               So we would just ask for their specific  
24      avoidance of that topic. And in addition, we didn't think  
25      it was going to come up at all, so I would ask for the

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1 Court to either advise the witness, or allow me to advise  
2 the witness that if he is asked questions, that he is not  
3 to discuss the nature of the arrest, not to blurt anything  
4 out about that. He is not prepared for that.

5 THE COURT: All right, I'll allow you to do  
6 that. Make sure you stay away from the domestic violence  
7 issues. I mean your purpose here is to establish that  
8 Mr. Floridia left the area not because he was afraid of  
9 Mr. DeMartino, but rather because he knew he was going to  
10 be arrested for and assault. I really don't think it  
11 makes much of a difference whether you say domestic  
12 violence or not.

13 MR. LaRUSSO: Judge, just so -- and again, I  
14 understand we're trying to be very careful in this area.  
15 But Mr. Floridia is probably the most critical witness.  
16 Because he implicates my client both in the Cutolo  
17 disappearance as well as the shooting of Mr. Campanella.

18 He basically admits that Mr. DeRoss was behind  
19 everything. He is a very critical witness. So his  
20 credibility is clearly in issue, probably more so than any  
21 of the other witnesses that appeared.

22 If we have this evidence, and as the Court says  
23 it may not be really all that important whether it's  
24 domestic violence or not -- this man is picturing himself  
25 as; he was married for 14 years, three children, and a

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1 wife.

2 He is going to get on the stand and talk about  
3 leaving. And left his family, and came back to his  
4 family. He is really painted as -- that is totally  
5 improper.

6 And I want the Court to at least be aware of,  
7 that it is coming out, because it may be reason to explore  
8 why he left, rather than just the fact that there was an  
9 arrest warrant, that he had committed a crime.

10 I mean those bland facts are not going to be as  
11 telling in terms of cross-examining Mr. Floridia. So what  
12 I would ask the Court to please, maybe before we decide  
13 completely on how to approach this, listen to  
14 Mr. Floridia's testimony. And then before we begin cross,  
15 revisit the issue on how much of this we can get into.

16 I think because of the nature of this witness'  
17 testimony, and how it impacts my client, I think we should  
18 be able to explore this in terms of showing he has lied on  
19 two prior proceedings about why he fled the district.

20 That is my request at this time, Judge, because  
21 of this issue.

22 MS. MAYER: Judge, all I'll say to that is;  
23 There is nothing about allowing the nature of the  
24 impending arrest that would prevent Mr. LaRusso from doing  
25 exactly what he just asked you to do; which is,

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1 confronting him with whether or not he testified that the  
2 real reason he ran way was because he as afraid of  
3 Mr. DeMartino. Or whether or not it was the fact that he  
4 believed he was going to be arrested on an assault charge.

5 There is absolutely nothing about the nature of  
6 the arrest that would prevent him from doing that. And  
7 what it is, is an attempt to get something that is highly  
8 prejudicial in front of the jury, which is why Judge  
9 Johnson wouldn't allow it.

10 And I understand there are other facts. I don't  
11 object to the cross-examination, in a proper way. But  
12 403, under 403 it is unduly prejudicial and it is  
13 inappropriate. There is ample cross-examination.

14 They can ask him questions about what his home  
15 life was or other cross-examination on that topic. But  
16 they can't get into the domestic violence, Judge. And  
17 they can ask him if he had a girlfriend, ask him if he was  
18 a good husband. You can't ask him whether or not he beat  
19 up his wife. It is totally improper, Judge, and  
20 prejudicial.

21 THE COURT: Ask him if he had a girlfriend?

22 MS. MAYER: I'm only stating -- they have done  
23 it in the past, to show dishonesty, which is where the  
24 girlfriend thing would be appropriate. The dishonesty in  
25 the marital vows. That is why they have been allowed to

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1 do it with Mr. Campanella and Mr. DiLeonardo.

2 THE COURT: But here is a situation; it is  
3 alleged by the defense that there was dishonesty as to the  
4 motivation for fleeing the jurisdiction.

5 MS. MAYER: And I have no dispute with that. It  
6 is the nature of the charge that has nothing to do with  
7 whether or not there has been a dishonesty on that.

8 THE COURT: This was an assault in the third  
9 degree?

10 MR. LaRUSSO: It was, your Honor.

11 THE COURT: And I think you should be able to be  
12 permitted to ask that there was an assault charge pending  
13 against him, on that date. And let's see how Mr. Floridia  
14 answers the questions in terms of his direct testimony.

15 Do you intend to bring out on direct that he  
16 fled the jurisdiction because he was threatened by  
17 DeMartino?

18 MS. MAYER: That is what he has testified to in  
19 the past. Yes, Judge.

20 THE COURT: All right.

21 MS. MAYER: Again, I would, you know -- this is  
22 not a new issue. I mean, so it is really unfair to bring  
23 it to us in the morning without giving us an opportunity  
24 for the Court's reconsideration. It was something that  
25 was specifically excluded in the first trial.

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1                   I would brief it for the Court. And  
2 Mr. LaRusso, with all due respect, has not been able to  
3 articulate any basis as to why the nature of the charge is  
4 relevant to this case.

5                   THE COURT: He has not. I agree with you.

6                   So under 430 it shouldn't be admissible. But  
7 let's see how Mr. Floridia responds to questions regarding  
8 his home life, both on direct and on cross-examination.

9                   MS. MAYER: I'm not going so ask him any  
10 questions on direct, Judge. It is not relevant.

11                  THE COURT: Well he already testified he has  
12 three children. He has been married for 14 years.

13                  MS. KEDIA: And he said it would, as Ms. Mayer  
14 said, it would be proper to ask him if he was a good  
15 husband. So obviously the cross-examination would be --

16                  MS. MAYER: I apologize. I misspoke, because I  
17 didn't have an opportunity to brief it. So please don't  
18 hold me to that.

19                  THE COURT: Let' see if the jury is in.

20                  MR. LaRUSSO: Your Honor, in light of the fact  
21 that this issue is now available, could we make those  
22 documents available, and we'll make copies for the  
23 government so they will know exactly what was turned over  
24 by the police, New York City Police Department?

25                  THE COURT: The New York City Police Department,

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1 yes. I'm just giving you the one with regard to the  
2 assault. And that we established the other issue that you  
3 requested on the uncharged, I'm not giving you. You  
4 haven't been able to establish in my mind a basis to admit  
5 that.

6 MS. MAYER: Judge, if I may? Just before we  
7 finish with direct, if the Court is going to allow it, I  
8 would ask that we be allowed to elicit it. It is really  
9 not fair if we see how it goes. And I then I can't elicit  
10 it in direct. And it looks like they have sprung  
11 something, and caught him in a lie on the stand that is  
12 really not proper in terms of allowing me to bring it out.  
13 I'm going to bring out his other criminal history. So I  
14 should know whether it is going to be in or not, Judge.

15 THE COURT: I don't know how it was resolved.  
16 You can take a look at it. And it involves December, his  
17 December 6, 2000 arrest.

18 MS. MAYER: Judge, I'm just talking about, we're  
19 talking about the domestic violence issue.

20 THE COURT: Yes.

21 MS. MAYER: So I should be allowed, to elicit  
22 it, if the Court is going to permit it in, I should be  
23 allowed to --

24 THE COURT: I'm not sure I'm going to be  
25 permitting it. The only thing I want you to be aware of,

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1       is that absent this defendant getting -- rather this  
2       witness getting up and saying that, you know, he has a  
3       glorious relationship with his wife and family, and he is  
4       totally dedicated to them, and so forth, I don't intend to  
5       let this in.

6                  I do intend to let in the fact that he had  
7       another motivation for leaving.

8                  MS. MAYER: No objection to that.

9                  THE COURT: And I expect the defendants not to  
10       raise that that motivation was because he punched his wife  
11       in the face, and she had a swollen chin, bruise under  
12       chin, cuts inside her lip. And he said, *I'm going up, now*  
13       *I have nothing else to lose.* That cannot come in the  
14       case.

15                  Will you make copies of this and turn it over?  
16       And the other copies with regard to the other arrest, I'm  
17       not turning over.

18                  MR. LaRUSSO: I understand the Court is going to  
19       pay careful attention to Mr. Floridia's testimony  
20       regarding his possession of weapons and things like that.  
21       It may become a little more relevant. That is all I ask,  
22       okay?

23                  THE COURT: Okay.

24                  MS. MAYER: Then if I may, Judge, just step out  
25       and let him know that if he is asked questions about any

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1 other arrests, he is not to disclose the nature of that.

2 That will be my instruction.

3 THE COURT: Yes. You can meet with him now, and  
4 advise him of that.

5 The other issue dealing with Mr. Floridia is  
6 certain business documents that have been requested by  
7 defense counsel.

8 And I really don't see the relevance at this  
9 point in time in terms of Mr. Floridia.

10 He was released at one what point in time,  
11 Ms. Mayer?

12 MS. MAYER: I'm sorry, I don't understand the  
13 question. He was released?

14 THE COURT: He was indicted when?

15 MS. MAYER: I believe he was indicted in the  
16 early 2003. He was arrested in February of 2003, and I  
17 believe he went before a magistrate on February 6th of  
18 2003.

19 THE COURT: And did he get out?

20 MS. MAYER: He did. He was on bail until the  
21 trial in April of 2004.

22 THE COURT: And he was convicted in April of  
23 2004?

24 MS. MAYER: In early May, actually, Judge.

25 THE COURT: And then was he given bail?

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1 MS. MAYER: No. He was remanded at that time.

2 THE COURT: All right.

3 Your argument with regard to his financial  
4 documents?

5 MS. KEDIA: Your Honor, without actually seeing  
6 the documents it is difficult for me to say whether in  
7 fact they prove up what we believe that they may. But we  
8 believe that Mr. Floridia was still engaging in crimes  
9 after his arrest in 2003.

10 THE COURT: Let me check the records, and see if  
11 there is any basis for the Court to make that finding.  
12 And then I'll turn them over. I don't think they do.

13 MS. MAYER: Judge, may I go through?

14 THE COURT: Yes.

15 (A recess was taken at 10:25 a.m.)

16 (The jury entered the courtroom at 10:45 a.m.)

17 THE COURT: Mr. Floridia, you are still under  
18 oath.

19 Ladies and gentlemen of the jury, we got a later  
20 start than we anticipated, but we'll go until one o'clock,  
21 if that is okay with you folks.

22 And we will also ask you if you have been  
23 writing in the transcript books that you have on your  
24 seats. You have been leaving them here. That would be  
25 part of the notes, and you should turn that over to

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1 Charlie at the end of the day, if you have. All right?

2 If you no longer want the transcript books, you  
3 can put those aside provided you haven't written anything  
4 in them. Okay?

5 Ms. Mayer?

6 MS. MAYER: Thank you, Judge.

7

8 **GIOVANNI FLORIDIA**

9 called as a witness, having been previously duly  
10 sworn, was examined and testified further as  
11 follows:

12

13 DIRECT EXAMINATION (Continued)

14 BY MS. MAYER:

15 Q. Mr. Floridia, if you can pick up the microphone?

16 A. Okay.

17 Q. When we left off yesterday, we were talking about  
18 your loansharking with Richie Cappa.

19 Do you remember that?

20 A. Yes.

21 Q. And you had gone to Billy Cutolo at his club.

22 A. Yes.

23 Q. At the time that you went to see Billy Cutolo at his  
24 club, how much money were you, in fact, loansharking with  
25 Richie Cappa at that time?

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1 A. It was in the \$300,000 range.

2 Q. And remind us, how much did you tell Billy Cutolo  
3 that you were actually loansharking?

4 A. Between 80 and \$100,000.

5 Q. And that wasn't the truth?

6 A. No.

7 Q. Did you ever tell anyone about the true amount of  
8 money that you were loansharking with Richie Cappa?

9 A. Yes.

10 Q. Who did you tell?

11 A. John Cerbone.

12 Q. Approximately when did you tell John Cerbone?

13 A. When did I tell John? It was after I met with Billy.

14 Q. And what connection, if any, did John Cerbone have to  
15 the Colombo family?

16 A. He is an associate, too.

17 Q. How did you meet John Cerbone?

18 A. We grew up in the same neighborhood, so I knew him  
19 from the neighborhood.

20 Q. Why did you tell John Cerbone about the true size of  
21 your loansharking business?

22 A. Well, I wanted to tell somebody. I didn't know, you  
23 know, how all this worked in the beginning. So I wanted  
24 to -- I was friendly with John, and he was around some  
25 guys. And I told him the truth -- you know, maybe he

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1 could help me out.

2 Q. And describe the nature of your friendship with John  
3 Cerbone.

4 Would you say that you were close friends?

5 A. Me and John got very close, yeah.

6 Q. Was he godfather to one of your children?

7 A. Yeah. I made him the godfather of my daughter.

8 Q. What crime, if any, did you commit with John Cerbone?

9 A. Loansharking, robbery, insurance fraud, illegal  
10 gambling.

11 Q. Did you tell the government about your crimes with  
12 John Cerbone when you cooperated with the government?

13 A. Yeah.

14 Q. Why?

15 A. Because that was part of me coming clean.

16 Q. Do you know someone named Vincent DeMartino?

17 A. Yes.

18 Q. Do you know him by any nickname?

19 A. Yes, Chickie.

20 Q. And do you recognize that individual?

21 A. Yes, that's Jack. (Indicating.)

22 Q. What, if any, connection did Vincent DeMartino have  
23 to the Colombo family?

24 A. He is a made member of the family.

25 Q. When did you first meet Mr. DeMartino?

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1 A. It was probably in 1997.

2 Q. And who introduced you?

3 A. John Cerbone.

4 Q. Why did John Cerbone introduce you to Vincent  
5 DeMartino?

6 A. Well, Vinnie -- Chickie was in jail, and he came home  
7 from jail. And he was looking to put a crew together.

8 Q. And when you say a *crew*, what do you mean?

9 A. He was looking to get guys to come with him -- you  
10 know, people who made money -- you know, earners to make  
11 the money.

12 Q. Where did you first meet Mr. DeMartino?

13 A. We had met in Staten Island. John Cerbone was -- he  
14 was a plumber. He used to do plumbing.

15 And we met in the school on construction. He  
16 was doing construction out of a school in Staten Island.  
17 And that is where the introduction was made.

18 Q. And what happened at that meeting?

19 A. It was just basically an introduction. He introduced  
20 me, and we talked for a few minutes. And that's about it,  
21 small talk, about nothing.

22 Q. What, if anything, did John Cerbone tell you about  
23 Vincent DeMartino's reputation in the Colombo family?

24 A. That he was a killer in the family.

25 Q. Between 1997 and May 1999, did you ever meet Vincent

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1 DeMartino at Billy Cutolo's club?

2 A. No.

3 Q. To your knowledge, what, if anything, was preventing  
4 Vincent DeMartino from coming to Billy Cutolo's club?

5 A. Billy --

6 Q. And explain that to the jury.

7 A. Well, when Chickie came home, he was on supervised  
8 release. And he couldn't go to the club because he would  
9 violate. And so Billy told him to stay away. And he told  
10 him to get a regular job.

11 Q. Did you ever observe associates in the Colombo family  
12 have a problem with Billy Cutolo because of their contact  
13 with Vincent DeMartino?

14 A. Not only did he -- Billy told everybody in the family  
15 to stay away from Chickie.

16 Well, what happened was Mikey Spats and John  
17 Cerbone and myself, we were still -- we were meeting with  
18 Chickie without nobody knowing. And one time we were at  
19 the school in Staten Island where John was working. And  
20 Chickie's parole officer was filming them. And they both  
21 violated.

22 Q. And when you say Chickie's parole officer was  
23 filming; did you know that at the time?

24 A. No, not at the time, no.

25 Q. And what happened? Did Billy Cutolo find out about

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1       this?

2       A.     Oh, yeah. Well, what happened is they both got  
3           violated, and they produced this video tape that was sent  
4           to their lawyers, which I watched. I went with John  
5           Cerbone to his lawyer and watched the tape of both of them  
6           there talking.

7                  And Billy had called them to the bar that night,  
8           and he was yelling. I was there when he was yelling at  
9           Mikey Spats and John Cerbone, you know, screaming and  
10           yelling, telling them that *I told you to stay away from*  
11           *this fucking guy. Youse don't want to listen. And this*  
12           *is what happens. Youse is lying to me.*

13                  And basically he shelled them.

14       Q.     And when you say Mikey Spats, who do you mean?

15       A.     Mike Spataro.

16       Q.     Did there come a time that you saw the defendant  
17           Jackie DeRoss at Billy's club?

18       A.     Yes.

19       Q.     Approximately when was that?

20       A.     It was probably about '98; yeah, it was around 1998.

21       Q.     And when you first saw Jackie DeRoss at Billy  
22           Cutolo's club, were you introduced to him?

23       A.     When I first seen Jackie at the club?

24       Q.     Yes.

25       A.     No, I didn't even know who he was. I -- I mean, I

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1       eventually knew who he was. But when I used to go to the  
2       club and see him, I didn't know. I just thought he was  
3       another guy in, you know, in the club.

4       Q. Now, yesterday you mentioned someone named Dom.

5                          Do you know him by a nickname?

6       A. Yeah, Black Dom.

7       Q. What position, if any, did he have in the Colombo  
8       family?

9       A. He is an associate.

10      Q. When did you first meet Dom -- or Black Dom?

11      A. I think it was probably around -- after I met with  
12       Billy. So it had to be around '97.

13      Q. From approximately 1997 to May of 1999, who did Dom  
14       report to in the Colombo family?

15      A. Directly to Billy.

16      Q. Did you ever see him with Billy Cutolo?

17      A. Yes.

18      Q. Based on seeing them together, how would you describe  
19       their relationship; Billy Cutolo and Black Dom?

20      A. They were very close.

21      Q. What, if any, crimes did you commit with Black Dom?

22      A. Robbery, drug dealing.

23      Q. And when you say drug dealing, what kind of drug?

24      A. Marijuana, marijuana.

25      Q. Were you involved in illegal gambling?

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1 A. And gambling, yes, illegal gambling. We had an  
2 apartment.

3 Q. And who else was involved in that illegal gambling  
4 with you and Dom?

5 A. It was myself, John Cerbone, Chickie, Jackie, Paulie  
6 Rizzuto, Rickie Montepurto (ph).

7 Q. And when you say Jackie, who do you mean?

8 A. Jack DeRoss.

9 Q. You mentioned robbery. Tell the jury what robbery  
10 you were involved in with Dom.

11 A. Yes. We had -- I had an illegal gambling operation  
12 at this apartment. And I had this kid, Pete, a gambler  
13 with us. And he used to lose money a lot. So I had this  
14 kid Lou T.

15 THE COURT: Little T?

16 THE WITNESS: No, Lou T, like Louis T.

17 A. And I went to go pick up a payment, checks -- checks  
18 from this kid, Peter. And The Kid, Lou T, recognized him  
19 and he said, you know, in the car when I was with him  
20 after I picked up the money, he said, that's, you know,  
*That kid supplies me, you know, with marijuana.*

22 And I said, I said, Wow.

23 So I just, you know, kept it in my head. And he  
24 was a stockbroker, this kid Pete.

25 So then I'm talking with Dominick, and I asked

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1 him about this kid, Pete, if he knows him. And he said he  
2 does know him.

3 And I told him, *Do you knew this kid sells*  
4 *drugs?*

5 He's like, *I know, you know, I thought he sold*  
6 *drugs. I asked him if he sold and he told me, no.*

7 So the kid was lying to him. So he goes, I want  
8 them to, you know, *I want you to set up a deal with this*  
9 *kid, Pete, so we can rob him.*

10 So I said, Okay. I told the kid, Lou T, to call  
11 him. And to set up for whatever he wants to purchase, 200  
12 pounds of marijuana. And he gave him a date and, you  
13 know, a place and a time, too, where he met -- to meet.

14 But Dominick knew where the kid lived. So we  
15 were going to intercept him before he went to this spot.

16 So I was driving my car, had a -- you know, a  
17 Nissan Maxima at the time. And he, Dominick, told me  
18 where to drive. The kid lived in Barry Park City in  
19 Manhattan. And we drove there and we waited. And  
20 eventually the kid winded up coming down from his  
21 apartment,, and he had two big black duffel bags with him.

22 And Dominick and Paulie got out of the car, and  
23 they approached the kid, Pete, and they brought him over  
24 to the car.

25 I popped the trunk, they put the bags in -- the

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1 duffel bags in the back. And they got in the car. The  
2 kid got in the back seat with Paulie, and Dominick got  
3 into the front seat with me, passenger seat.

4 And Dominick was yelling at the kid, you know:  
5 *I asked you before if you sold pot, you fucking lied to*  
6 *me. This is what happens when you lie to me. Now, you're*  
7 *getting robbed. What else do you have in your house?*  
8 *Give me your keys.*

9 And Paulie had a gun on the kid. And so the kid  
10 gives him the keys. And so he goes, *I'm going upstairs*  
11 *into your house. You better not lie to me.*

12 So they get out of the car. I get out of the  
13 car. Paulie hands me the gun and tells me to keep him  
14 there.

15 So I get in the back seat, and I basically hold  
16 Pete while they go upstairs and ransack his house.

17 Q. And you mentioned Paulie. Who is that?

18 A. Paulie Rizzuto.

19 Q. Did they come back downstairs? Do Dom and Paulie  
20 come back downstairs eventually?

21 A. Eventually, yeah, they come back down. And they told  
22 me to drive to Staten Island.

23 So we drive to Staten Island. And we meet --  
24 they told me to go to Highland Boulevard. There is a  
25 bagel store over there. And we meet up with Rickie

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1 Montepurto. They told me to go to the apartment in Staten  
2 Island, take -- take the weed there, and go to the  
3 apartment and wait for them.

4 Q. And what happened?

5 A. And they took the kid, Pete, and I waited for them.

6 Q. And did you come to learn whether anything happened  
7 to Pete?

8 A. Well, yeah, eventually. I mean, nothing happened to  
9 Pete. I mean, eventually I was in Home Depot one day and  
10 I wound up seeing the kid with his fiancee.

11 Q. Were you ever arrested for your involvement in this  
12 robbery of Pete?

13 A. No.

14 Q. And when you cooperated, did you tell the government  
15 about it?

16 A. Yes.

17 Q. Did you ever have a problem with Billy Cutolo  
18 regarding the money from the robbery of Pete?

19 A. Yes.

20 Q. When was that?

21 A. That was probably in '98, '99.

22 Q. And explain the problem to the jury.

23 A. Well -- out of the pot that we robbed from the kid,  
24 Pete, we were going to make about \$200,000 after selling  
25 it.

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1                   So we were going to rack up \$50,000 apiece after  
2 the robbery.

3                   So after the robbery, when it was time for us  
4 to, you know, get our money, Paulie told me that I have to  
5 go see Billy at the club.

6                   So I go see Billy. And Billy tells me, not only  
7 am I not going to get the \$50,000 from the weed, the pot,  
8 but he is going to tax me another \$25,000 because, he said  
9 all of the lies that I have been telling him over the  
10 years on how much money I really had out on the street.

11          Q.     And where were you when you went to go see Billy and  
12 he told you about how you weren't going to get your share  
13 of the money and that he was taxing you?

14          A.     Where was I?

15          Q.     Where did you go to see Billy?

16          A.     I went to the club.

17          Q.     And what, if anything, did Billy Cutolo tell you to  
18 do after he told you that he was taxing you?

19          A.     He told me to go get his money.

20          Q.     After Billy Cutolo told you to go get his money, what  
21 did you do?

22          A.     I called John Cerbone and I told him what happened.  
23 And he told me that he was going to call Chickie, and they  
24 would take care of it.

25          Q.     How soon after you met with Billy Cutolo did you call

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1 John Cerbone?

2 A. Right after I left.

3 Q. And why did you call John Cerbone?

4 A. I wanted to tell him so Chickie knew what was going  
5 on.

6 Q. What was your relationship with Chickie DeMartino at  
7 this point?

8 A. Basically, at that point, I was -- I wasn't on a  
9 one-on-one with Chickie. I had my go-to guy, which was  
10 John Cerbone. You know, he introduced me to Chickie, and  
11 right now he was handling me basically in the crew.

12 THE COURT: Who is *he*?

13 THE WITNESS: John Cerbone.

14 BY MS. MAYER:

15 Q. What did you tell John Cerbone when you called him?

16 A. Well, I told him about the robbery. And I told him  
17 about, you know, the marijuana and the sale -- the money.  
18 And that Billy told me that not only am I not getting the  
19 money, that he is going to tax me because of all of the  
20 lies over the years that I have been telling him about  
21 loansharking.

22 And he told me that this -- they would talk to  
23 Billy, and they would take care of it. So I left it like  
24 that.

25 Q. Did you eventually get an answer back from Chickie?

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1 A. Not that I remember, no.

2 Q. What did you do after you spoke to John Cerbone and  
3 you told him about the problem?

4 A. Can you repeat that?

5 Q. Sure.

6 What did you -- after you called John Cerbone to  
7 tell him about the problem, what did you do?

8 A. I just went on, you know, with whatever I did.

9 Q. After that night -- after you told John Cerbone about  
10 the problem, did anyone ever come and try to collect the  
11 \$25,000 from you?

12 A. Yes.

13 Q. Who?

14 A. Paulie Rizzuto.

15 Q. And where did you meet Paulie Rizzuto?

16 A. Well, Paulie called me and told me that he wanted me  
17 to meet him by his mother's house. And I went there and I  
18 met him.

19 Q. How did you get there?

20 A. I drove by myself. And I pulled up and I seen Paulie  
21 outside. And I got out of the car. And we started  
22 walking until we got, you know, a little bit past his  
23 mother's house. It was near a school.

24 And he asked me, he says, *Do you have Billy's*  
25 *money? You know, Billy wants to know about the money. Do*

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1       *you have it?*

2                   And I told him, No.

3                   And he said, *Why not?* He say -- he started  
4                   getting aggressive.

5                   And I said, *Because I don't have it.* You know.

6                   So he turned around and he smacked me. And he  
7                   said, *Billy told you to go get his money.* You know, *Why*  
8                   *didn't you get his money?*

9     Q.    Where did Paulie Rizzuto smack you?

10    A.    He smacked me in the face.

11    Q.    Did you hit him back?

12    A.    No.

13    Q.    Why not?

14    A.    Because that is what he wanted. I knew that the  
15           message was coming from Billy. So if you were to hit  
16           Paulie, I would have had a problem with Billy.

17    Q.    Other than when Paulie Rizzuto smacked you in the  
18           face, has anyone from the Colombo family ever hit you?

19    A.    No.

20    Q.    After Paulie Rizzuto slapped you in the face, what  
21           did you do?

22    A.    I was furious. You know, I didn't -- I immediately  
23           left there. And I called -- as soon as I left there, I  
24           called John Cerbone. And he told me to come to his  
25           mother's house.

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1           And I when I got there, I was like -- I was  
2 like -- well, *What the fuck is going on? I don't*  
3 *understand what happened. You told me you were going to*  
4 *take care of this. This kid slapped me. You know, Billy*  
5 *wants his money. I don't know, I don't know what to do.*

6 Q.   When you said John -- you told John Cerbone, *I*  
7 *thought you were going to take care of this; what did you*  
8 *mean?*

9 A.   Well, there wasn't just John Cerbone. I went to his  
10 house. When I got there, there was John Cerbone and  
11 Chickie was there. So I was telling both of them, you  
12 know, *I thought you were going to take care of this. I*  
13 *don't know what's going on. This guy wants his money. He*  
14 *sent Paulie. He smacked me.*

15           So, you know, I was furious. You know what I  
16 mean. I didn't know, you know, what to do. This guy just  
17 told me, you know, that they were going take care of it,  
18 and now I just got slapped, you know, from this kid,  
19 Paulie, from Billy.

20           So now you know that something is going on here.

21           So Chickie tells me, *Listen, don't worry about*  
22 *it. This guy is not going to be around much longer. I'm*  
23 *going to call Jackie, and I want you to tell him exactly*  
24 *what happened. And you're going to meet him and tell him*  
25 *exactly what happened.*

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1 Q. So when Vincent DeMartino told you, *Don't worry, this*  
2 *guy is not going to be around much longer*, who did you  
3 understand him to mean?

4 A. Billy.

5 Q. And then Vincent DeMartino told you that he wanted  
6 you to tell Jackie exactly what you told him?

7 A. Exactly. Well, he was trying to make me calm down,  
8 you know, because I was a little -- you know, I was -- you  
9 know -- I was baffled on what was happening.

10 Q. Who did you understand Vincent DeMartino to mean when  
11 he said, *I want you to tell Jackie exactly what happened*?

12 A. Well, at the time, I didn't know who Jackie was. So  
13 you know, it was Jack DeRoss.

14 Q. And did Vincent DeMartino give you any instructions  
15 as to where to go to meet Jack DeRoss?

16 A. He told me that they were going to call him and  
17 they'll call me back so let me know when and where to meet  
18 him.

19 Q. And what happened?

20 A. And then I don't remember if it was the next day or  
21 that night or the next day, but he called me and he told  
22 me to meet him by 13th Avenue in Brooklyn -- 13th Avenue  
23 and 64th Street, around the corner from the funeral home.

24 Q. When you said *he called me to tell me where to meet*,  
25 who called you?

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1 A. John Cerbone.

2 Q. And who were you supposed to meet by the funeral  
3 home?

4 A. Well, he told me that the -- he -- the guy he  
5 described, he was going to be a little guy. And it was  
6 Jack DeRoss.

7 Q. Did you, in fact, meet with Jack DeRoss?

8 A. Yes.

9 Q. They stayed by the funeral home. How did you get  
10 there?

11 A. I drove.

12 Q. Did you go alone or with anyone else?

13 A. I was by myself.

14 Q. And what did you see when you got there?

15 A. Well, I seen a little guy standing on the -- you  
16 know, under a tree by a brick wall. And I seen a  
17 double-parked car, a Lincoln Town Car that was  
18 double-parked. And there was a guy in it, too.

19 Q. And did you go up to the person on the sidewalk?

20 A. Yes.

21 Q. And that is the person you have identified as Jackie  
22 DeRoss?

23 A. That was Jackie.

24 Q. And tell us what happened. You walk up to him and  
25 what happened?

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1 A. I walked up to him and told him: *I'm John, the*  
2 *Barber.* And he told me he was Jack. And he asked me what  
3 happened.

4 And I went through the whole story about, you  
5 know, the robbery, and the pot, and Billy and the --  
6 Paulie slapping me.

7 And he grabbed me by the arm and he told me,  
8 *Don't worry about it. Things are going to change. Stick*  
9 *with Chickie. Keep doing what you're doing.*

10 Q. When Jackie DeRoss told you not to worry about it and  
11 things are going to change, what did you understand him to  
12 mean?

13 A. Can you repeat that?

14 Q. Sure.

15 When Jackie DeRoss grabbed you by the arm and  
16 said, *Don't worry about it. Things are going to change;*  
17 what did you understand him to mean?

18 A. Well, then, my understanding was that they were going  
19 to whack Billy; things are going to change. Chickie just  
20 told me that, you know, he ain't going to be around much  
21 longer, and now I have Jackie telling me that -- you -- he  
22 ain't -- he is not -- things are going to change.

23 So, you know, I'm thinking that something is  
24 happening. You know, I'm thinking that something is going  
25 to happen to Billy.

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1 Q. And what was Jackie DeRoss' demeanor when he told you  
2 that, that things are going to change, to stick with  
3 Chickie?

4 A. Well, he was serious. You know, he was just telling  
5 me, you know, things are going -- don't worry. Things are  
6 going to change.

7 Q. How much time -- well, what was Billy Cutolo's rank  
8 in the Colombo family at this point?

9 A. I only remember Billy as an underboss from when I was  
10 around.

11 Q. How much time passed between when you met with Jackie  
12 DeRoss by the funeral home where he told you things are  
13 going to change, and Billy Cutolo's disappearance?

14 A. Probably a couple of weeks.

15 Q. After that meeting with Jackie DeRoss by the funeral  
16 home, did you go back to Billy Cutolo's social club?

17 A. Yes.

18 Q. Who told to you go back to the club?

19 A. Well, they -- well Jackie told me, I know, keep --  
20 stick with Chickie, keep doing what you're doing. So my  
21 understanding was to keep doing my routine, you know,  
22 making my payments, keep -- you know.

23 Q. Describe what happened the first time that you went  
24 back to the social club after you had met with Jackie  
25 DeRoss?

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1 A. Well, it was -- you know, it was crowded as usual,  
2 everybody was there making their payments or putting in  
3 words for money. And when I walked in, I said hello to  
4 everybody in the beginning of the club. And then I seen  
5 Jackie sitting there with his, you know, cigar in his  
6 mouth.

7           And I went to go, you know, like I was going to  
8 go approach him. And he made believe like he didn't even  
9 know me. Like he turned away, like he didn't want me  
10 approaching.

11           So I was a little confused like, you know, I  
12 just met the guy and the -- I got introduced to him and,  
13 you know, and I caught that he didn't want me to go up to  
14 him. And I didn't.

15 Q. Did you have any concerns about your safety at that  
16 point?

17 A. You know, I'm in the middle of a bunch of killers, so  
18 I was -- of course I'm concerned for my safety.

19 Q. Well, explain what your concerns were to the jury.

20           What was going on in your mind at that time?

21 A. Well, I knew that I had lied to Billy, and now  
22 Billy's taxing me. So I'm in the middle of that mess.

23           And now I got these guys telling me that; Don't  
24 worry about it. Keep doing what you're doing. And this  
25 guy is going to basically disappear.

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1           So, you know, I'm trying to, you know, figure  
2 out which way I'm going to go. And I'm going to go with  
3 the people who I think are going to take over. And, you  
4 know, that's going to be these guys who are going to kill  
5 Billy.

6 Q. And you told us there came a point where something  
7 happened to Billy Cutolo?

8 A. Yes.

9 Q. And what happened?

10 A. They killed him.

11 Q. And about how long after this meeting?

12 A. A couple of weeks.

13 Q. Did you have anything to do with Billy Cutolo's  
14 disappearance?

15 A. No.

16 Q. Do you recall what day of the week it was when Billy  
17 disappeared?

18 A. Wednesday -- Wednesday night.

19 Q. Do you recall if you made a loanshark payment that  
20 Wednesday night?

21 A. Yes, I do.

22 Q. And do you remember if you went to Billy's club after  
23 that?

24 A. I went to the bar, made my payment. I went to the  
25 club to show my face to Billy. Because that is what he

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1        wanted. He wanted everybody there every Wednesday.

2                And I seen that he wasn't there. And I left,  
3        and I went to a bar. After the club there was -- a few  
4        guys, we would get together and we would go to a bar on  
5        5th Avenue and have drinks and stay out there to whenever.

6        Q. Did there come a point late that Wednesday night that  
7        you saw anyone from Billy's club?

8        A. Yes.

9        Q. Who did you see?

10      A. I seen Ralphie from downtown, and Joey Petillo.

11      Q. And what, if anything, did they tell you about Billy?

12      A. That he never showed up at the club that night. And  
13       the reason they told me that is because Billy always  
14       showed up at the club on Wednesday night. And that was a  
15       problem that he -- that he didn't show up.

16      Q. Who, if anyone, did you see the next morning -- that  
17       Thursday morning?

18      A. Well, at that time, I was having problems with my  
19       wife, so I was living with my mother in Brooklyn, in the  
20       basement. I had like an apartment there.

21                And I had gotten a visit that morning from John  
22       Cerbone. And he woke me up. And he told me that we  
23       needed to talk. And we needed to go for a walk.

24                So we went for a walk and talked. And he told  
25       me, *Listen, Billy's gone.*

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1           I said, *What do you mean, Billy's gone?*

2           He said, *He's gone, that's it. If anybody comes*  
3           *around, don't talk to nobody. Don't give them all the*  
4           *answers. We'll get in touch with you.*

5       Q. And when John Cerbone told you not to talk to  
6           anybody, would you have anything to say? Did you know  
7           anything at this point?

8       A. Well, yeah.

9       Q. What did you know?

10      A. I know they killed Billy.

11      Q. Now, you told us that Billy Cutolo was the underboss  
12           when he disappeared.

13           After Billy Cutolo disappeared, was the  
14           underboss position filled in the Colombo family?

15      A. Yes.

16      Q. By who?

17      A. Jack DeRoss.

18      Q. How did you learn that Jackie DeRoss became the  
19           underboss?

20      A. Chickie told me.

21      Q. Who were you on record with before Billy disappeared?

22      A. Before Billy disappeared, I was on record with Billy.

23      Q. And who were you on record with after Billy  
24           disappeared?

25      A. I was on record with Chickie.

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1 Q. Prior to Billy Cutolo's disappearing, what, if  
2 anything, did Vincent DeMartino tell you about his  
3 feelings toward Billy Cutolo?

4 A. Well, he -- you know, would have outbursts about  
5 Billy, you know, on many occasions. Sometimes he would  
6 say, *You know, that cocksucker got everything he deserved.*  
7 *They're never going to find him.*

8 And then he would catch himself. He would say,  
9 *Well maybe he's in -- you know, in Aruba playing*  
10 *blackjack.*

11 And then he was mad that -- on different  
12 occasions, never on one sitting. He told me that the  
13 reason why Billy is not around is because, you know, he  
14 didn't know how to treat his guys. He robbed them. He  
15 got them playing against each other. And that's why he's  
16 gone.

17 And he was mad at Billy because he did all the  
18 work in the family. Meaning that, you know, during the  
19 war, or whatever Chickie did before I knew him, all of the  
20 killings in the family, he was mad that when he came home  
21 from prison that he made him go get a regular job, and  
22 instead of coming to the club and making him earn.

23 What else? I mean -- you know, that's how it  
24 would be with Chickie.

25 Q. You said that Vincent DeMartino told you they'll

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1 never find him. *He*, referring to Billy?

2 A. Yes.

3 Q. What was Vincent DeMartino's demeanor when he told  
4 you that?

5 A. Sometimes he -- you know, he was furious and glad.

6 And sometimes, like, he would be sarcastic, you know, like  
7 they'll never find him. He's probably in the Bahamas.

8                   He would catch himself. You know, I'm just an  
9 associate, you know. I'm not a made member, but me and  
10 Vincent got close.

11                  I mean, I was with him every day. So he would  
12 tell me, you know, certain things that he wasn't supposed  
13 to. And then he would catch himself when he told me, you  
14 know, Well, maybe he's in, you know -- sarcastically, he  
15 would tell me, *Well, maybe he's in Aruba playing blackjack*  
16 *with his girlfriend*, things like that.

17 Q. You said you and Vincent DeMartino got close; How  
18 much time -- how often would you meet together after Billy  
19 disappeared?

20 A. Well, before Billy's disappearance, we were meeting,  
21 you know, in odd places, in pizzerias, you know, on the D  
22 L without knowing -- you know, knowing that we were  
23 meeting.

24                  Now, after Billy's disappearance, it was totally  
25 different. We're out in the open. I mean -- and he

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1       wanted everybody to know that he was out. He had no more  
2       restraints on him. You know, he meant business now.

3       Q. And so how often would you see Vincent DeMartino  
4       after Billy's disappearance?

5       A. Well, he took a liking to me. I mean -- and he would  
6       start calling me on his own, without John Cerbone. And we  
7       would meet up together and hang out all day basically.

8       Q. What change, if any, did you see in the way other  
9       people in the Colombo family treated Vincent DeMartino?

10      A. Well, they were deathly afraid of Chickie from the  
11       beginning. Now it was even more so. I mean, the respect  
12       was tremendous. I mean, everybody wanted -- when they  
13       seen me -- you know, by myself and I seen guys I didn't  
14       even know that knew me, the will tell me, *Hey, when you*  
15       *see Chickie send him my love.* The respect that came --  
16       you know, enormous.

17      Q. Following Billy Cutolo's disappearance, did you have  
18       a meeting with Vincent DeMartino and Jackie DeRoss?

19      A. Yes.

20      Q. About how long after Billy Cutolo disappeared did you  
21       have this meeting?

22      A. It was probably seven weeks later.

23      Q. And where did you -- did the meeting take place?

24      A. It took place in the apartment in Staten Island.

25      Q. Is that the apartment where the gambling spot was

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1       that you told us about?

2       A.     Yes.

3       Q.     Who was at the meeting?

4       A.     There was myself, Vincent DeMartino, Jack DeRoss,  
5           Black Dom and Paulie Rizzuto.

6       Q.     And what was the purpose of the meeting?

7       A.     The purpose of that meeting was that Black Dom and  
8           Paulie didn't want to go into Chickie's crew. They wanted  
9           to stay with Jackie. They were putting up an argument  
10          that they wanted to stay with an administrative guy. And  
11          they didn't want to go with Chickie.

12      Q.     Explain what you mean when they said they wanted to  
13          go with *an administrative guy*.

14                   What did you understand that to mean?

15      A.     They wanted to go with Jackie, who was the underboss.  
16          And they used to be with Billy, who was the underboss.

17                   So I mean, if they go lower than that, they  
18          thought it was getting, like, demoted. But that really  
19          wasn't the reason why they were fighting, you know, to --

20      Q.     What do you mean?

21      A.     -- to stay with Jackie. I mean, the reason why  
22          they -- they were basically fighting for their lives at  
23          that meeting, because Chickie wanted them with him,  
24          because he had told me that -- that as soon as the kids  
25          fucked up, that they were going to put -- he was going to

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1 put their heads on the chopping block.

2 So he wanted them, because he wanted to get --  
3 give me Paulie, because of the slap. And he wanted to get  
4 Dom because he -- he had caught Dom -- Chickie had caught  
5 Dominick tailing him when Billy was around. You know,  
6 like following him around.

7 Chickie used to have pigeons on his roof. And  
8 he used to go to the roof a lot, and the guys didn't know  
9 that. And Chickie would always be, you know, on the  
10 lookout for people around his neighborhood.

11 And he caught Dominick following him and  
12 circling his house. So he knew something was up  
13 between -- you know, between with Billy and this kid,  
14 Dominick.

15 Q. And so you said the meeting was about deciding where  
16 Paulie and Dominick would go?

17 A. Yes.

18 Q. Who they would be with?

19 A. Yes.

20 Q. And what was the outcome of this meeting?

21 A. Well, Jackie kept them with him. He basically  
22 decided against that -- Chickie's wishes, and kept them  
23 with him.

24 Q. What did Jackie say at this meeting in terms of  
25 making this decision?

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1 A. That these kids were going to be -- that Dominick and  
2 Paulie, he told them, *You're going to be with me.* And you  
3 better not fuck up because then you're going to go with  
4 this guy, meaning Chickie.

5 Q. After that meeting, did you see Paulie Rizzuto and  
6 Dominick again?

7 A. Yes.

8 Q. How did they act towards you?

9 A. Totally different.

10 Q. Explain that to the jury.

11 A. They were basically up my ass. I mean, the respect  
12 level jumped. I mean, they were afraid now. They were  
13 afraid because now I'm with Chickie, who is like a killer.  
14 You know, everybody is deathly afraid of him. And I'm  
15 basically with him every day. I'm like his, doing  
16 everything for this guy now.

17 And, you know, they wanted to stay friends with  
18 me. And they wanted to make up for all the -- you know,  
19 the things that they went against me when Billy was  
20 around.

21 You see, these two guys were Billy's -- like --  
22 like basically, they're rats in the family. These two  
23 guys would tell them what scores people made. They would  
24 tell Billy how much money they made.

25 They would run back to Billy and they would tell

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1       him and he would go, you know, and Billy would instruct  
2       them to set these guys up, meaning me and other people,  
3       the kid Joey Petillo with either robbery. You know, this  
4       is what they did.

5       Q.     Were you ever present for a meeting with Vincent  
6           DeMartino and Richie Cappa after Billy Cutolo disappeared?

7       A.     Yeah. Well, what happens is --

8       Q.     Well, about how long after Billy disappeared did you  
9           have this meeting with Vincent DeMartino and Richie Cappa?

10      A.     A few weeks -- I mean, seven weeks -- I mean,  
11           everything is happening, you know, in the same time frame.

12      Q.     And where did the meeting take place?

13      A.     I called Richie and told him to meet us in Brooklyn  
14           on Bay Parkway near the train station.

15      Q.     Did you do that on your own, or did Vincent DeMartino  
16           tell you to set up the meeting?

17      A.     No, Chickie told me to set it up.

18      Q.     And what happened at this meeting?

19      A.     Basically, when we got to the meeting, and -- um,  
20           Richie, he's deathly afraid. Everybody was deathly afraid  
21           of Chickie.

22                  He was being questioned on how much money he had  
23           out on the street. Now, the roles got reversed. Because  
24           Richie knew -- Chickie knew that Richie had told me to lie  
25           if -- you know, before, about how much loansharking money

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1 we had.

2 So he brought me to the meeting knowing that,  
3 you know, he lied before. And so now, Richie would tell  
4 the truth, you know. So he basically was intimidating  
5 Richie into telling him how much money he owed for the  
6 family.

7 Q. Now, sometime after that meeting, did you learn who  
8 Richie Cappa was assigned to in the family -- in the  
9 Colombo family?

10 A. Can you repeat that?

11 Q. Sure. Sometime after that meeting --

12 A. Okay.

13 Q. -- Vincent DeMartino and Richie Cappa, did you come  
14 to learn who Richie Cappa was assigned to in the Colombo  
15 family?

16 A. Yes. He was with Joe Campy.

17 Q. After Billy Cutolo disappeared, did you have any  
18 discussion with Vincent DeMartino about Billy's money?

19 A. Yes.

20 Q. Are those the conversations that you just told us  
21 about?

22 A. Yes. And my -- how much money I owed. And who else  
23 I knew owed Billy money.

24 Q. Since you were -- you said you were questioned about  
25 how much money you owed?

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1 A. Yes.

2 Q. And what happened with that loanshark debt that you  
3 had been paying to Billy Cutolo after disappeared?

4 A. Well, Chickie told me that they talked it over, and I  
5 have to pay them now.

6 Q. And did you, in fact, pay on that debt?

7 A. Yes.

8 Q. Who did you give your payments to?

9 A. Chickie. Sometimes if I didn't see Chickie, I would  
10 give it to either John Cerbone, or I would give, drop it  
11 off to Mikey Spats.

12 Q. And how often did you make a payment?

13 A. Every week.

14 Q. What other crimes did you commit with Vincent  
15 DeMartino?

16 A. Robbery, burglary, loansharking, illegal gambling. I  
17 was involved in a plot to kill Joseph Campanella.  
18 Insurance fraud, I think. Check fraud, witness  
19 tampering -- or I'm not sure what that was.

20 Q. Were you involved in an arson?

21 A. Arson.

22 Q. What happened with that?

23 A. Well, Chickie was -- he belonged to a pigeon club,  
24 like I said before. And homing pigeons, they were raising  
25 pigeons. And I used to go to the meetings sometimes with

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1 him. They would have gatherings. And they were buying  
2 and selling pigeons and trading.

3 And apparently, he had gotten into like an  
4 argument with this guy -- an old man actually it was, an  
5 older guy. And they got into an argument with the guy.

6 And he had given me the address. He had said  
7 that he wanted me to go to this guy's house, and burn down  
8 his garage that had his pigeons there.

9 And he gave me the address in Staten Island.  
10 And I went there and I burned it down.

11 Q. Were you ever involved in an assault for Vincent  
12 DeMartino?

13 A. Yes.

14 Q. Tell us about that.

15 A. Chickie's daughter was working for a medical place --  
16 a doctor, somewhere in Brooklyn. I think it was down -- I  
17 think it was on Kimball Street. I really don't remember.

18 He had given me the address, and the doctor's  
19 license plates, and what kind of car he had. And he told  
20 me the reason was because the doctor disrespected his  
21 daughter, sprayed some Windex on her or something. And  
22 you know, she was upset and told her father.

23 And of course, he came to me again, and he  
24 said -- he gave me the address. He told me to go there  
25 and straighten the guy out; basically to give him a

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1           beating.

2           And so I went and got two guys, and took them to  
3         this place, and gave them where this car was, and the  
4         license plate, and what the guy looked like.

5           And basically, when the guy came out, they gave  
6         him a beating.

7       Q.    Were you ever involved -- you mentioned burglary.

8       Were you involved with Vincent DiMartino?

9       A.    Yes.

10      Q.    Were you ever involved in a bank burglary with him?

11      A.    Yes.

12      Q.    And as part of that, did you give money -- pick money  
13       up to kick money up to anyone in the family?

14      A.    Yes.

15      Q.    Explain that.

16      A.    Well, when we did the robbery, it was like a set-up  
17       robbery. It wasn't like a real robbery. I mean, it was a  
18       robbery but it was, like, all staged.

19           And when we got the money -- it was about  
20       \$30,000. Chickie told me that he's going to take  
21       10 percent of the money and kick it up to Jackie, and  
22       that's what he did. He took out \$3,000 and he said, *I'm*  
23       *going to tell Jackie this came from us.*

24      Q.    And just when you say *staged*, what do you mean?

25      Explain that to the jury.

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1 A. Excuse me?

2 Q. When you say *staged robbery*, what do you mean?

3 A. Well, it was -- it was an inside robbery. I mean,  
4 the guy who was dropping off the money was in on it. And  
5 when he was coming in to go to the bank, I intercepted  
6 him, took the bag. I ran with the bag, got in the car and  
7 we took off.

8 Q. And you said that Chickie said he was going to give  
9 the money to Jackie. Jackie who?

10 A. Jackie DeRoss.

11 MS. KEDIA: Can we get a time frame for this?

12 THE COURT: Yes.

13 BY MS. MAYER:

14 Q. When approximately, when was this robbery?

15 A. It was definitely after '99. I couldn't tell you --  
16 I really don't remember what year. I really have to think  
17 about it.

18 Q. Did Mr. Cappa know when your loanshark customers were  
19 not making payments to you?

20 A. Can you repeat that? I'm trying to think of the  
21 thing.

22 Q. Did there come a point when your loansharking  
23 customers weren't making the payments to you that --

24 A. Yes.

25 Q. When was that?

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1 A. Probably near 2000.

2 Q. And as a result of you not getting your payments,  
3 were you able to make your payments to Vincent DeMartino?

4 A. No.

5 Q. Was there a problem with that?

6 A. Well, eventually, yeah, it became a problem. Because  
7 Vincent -- you know, I told Vincent that, you know, these  
8 guys aren't paying. And some guys took off. I couldn't  
9 find where they were. These guys were paying for years.

10 And I couldn't find where they were. They were  
11 gone.

12 So I was keeping up the payments as long as I  
13 could. Then I told him, *Listen*, I said, *I just can't make*  
14 *the payments no more. You got to do something.*

15 And he got very angry at me. He didn't -- he  
16 didn't like that. I basically -- he told me he wanted his  
17 money and if I didn't get his money, he was going to  
18 kill me.

19 Q. And what, if anything, did you do after Vincent  
20 DeMartino told you that he was going to kill you if he  
21 didn't get his money?

22 A. Well, I left. I took off. I went on the lam. So I  
23 could -- you know, I mean, this nut job -- I laugh now,  
24 but I was thinking about it. I have this killer telling  
25 me that he is going to kill me if I don't give him his

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1 money. And I had to straighten it out. I had to try to  
2 figure it out. So I took off.

3 Q. Was that the only reason why you took off?

4 A. What do you mean?

5 Q. Was there anything else going on in your life at this  
6 point?

7 A. I was having problems with my wife, too.

8 Q. Now, while -- where did you take off to?

9 A. I went to New Hampshire.

10 Q. And did you get a job when you went to New Hampshire?

11 A. Yes.

12 Q. Where did you work?

13 A. I worked in a barbershop.

14 Q. Did you -- do you remember the town?

15 A. At the barber shop? Yeah.

16 Q. What town was it in?

17 A. It was Keene, New Hampshire.

18 Q. Do you remember the name of it?

19 A. Yeah, Frank's Barbershop.

20 Q. How long did you stay in New Hampshire?

21 A. About four months.

22 (Continued on the following page.)

23

24

25

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1 BY MS. MAYER:

2 Q Did you stay in touch with anybody in your family  
3 when you went away to New Hampshire?

4 A Yeah; my parents.

5 Q Did you eventually come back to New York?

6 A Yes.

7 Q How did that come about?

8 A I had gotten a message that -- from Tony the Arab  
9 that he wanted to talk to me and he told me that Chickie  
10 said -- he wanted -- basically wanted to know where I was.  
11 And I didn't tell him obviously but, you know, I was  
12 getting a feel because he was hanging out with Chickie at  
13 the time and I was basically getting a feel of, you know,  
14 the way Tony was talking about Chickie and if everything  
15 is good, is he still mad, like what's going on. Things  
16 like that.

17 I sensed that he just wanted to talk to me. He  
18 just said it out of anger and he wanted to talk to me. So  
19 I winded up -- I made arrangements where I came back.

20 Q When you got back to New York, did you speak to  
21 Vincent D Martino?

22 A I found out where Vincent was and I waited until he  
23 was alone and he was by his house in Queens and I went to  
24 go see him. And I walked in on him and he was basically  
25 like telling me I don't understand what happened, why did

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1 you leave like that, you know, you are my friend. I said:  
2 You are my friend? You threatened me. You told me you  
3 were going to kill me, you know what I mean, if I didn't  
4 pay you. What did you want me to do? I wanted to work it  
5 out, you know, I was going to try to get the money for you  
6 but you didn't even give me a chance.

7               Anyway, he said don't worry about it. Let's  
8 just -- come back, I'm going to get you a job. And we  
9 went from there.

10 Q About what time of year was this?

11 A I think it was 2001.

12 Q Do you remember when in 2001?

13 A January. I came back in January.

14 Q What, if anything, was Vincent DeMartino doing at  
15 this time in his house?

16 A He had bought a house, Queens, and he was basically  
17 -- was renovating the whole house.

18 Q Did you do anything to help him with that?

19 A Yeah. I was with him every day then, again, I mean,  
20 we was like I never left but he was basically using me.

21       Everything he asked for I got for him. Everything he  
22       asked me I did for him. And he had told me -- I basically  
23       -- he would set up -- he had -- Carmine DeRoss and John  
24       Cerbone had plumbers in Staten Island, they did new  
25       construction pluming in Staten Island so they knew when a

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1 shipment of windows were coming in and wallboards and 2 by  
2 4s and basically everything for a house. And he would  
3 call me and he would tell me where to go and I basically  
4 would go there with trucks and rob everything and bring it  
5 to Vincent so he can fix his house.

2313

6 Q Now, you mentioned someone named Carmine DeRoss who  
7 was involved in helping you steal materials. What, if  
8 any, relation does Carmine DeRoss have to Jackie DeRoss?

9 A That's his nephew.

10 Q Do you know Carmine DeRoss by any nickname?

11 A Skippy.

12 Q What, if any, connection does Carmine Skippy DeRoss  
13 have to the Colombo family?

14 A He is an associate.

15 MS. MAYER: Judge, may I approach the witness?

16 THE COURT: Yes.

17 Q I'm showing you what's marked 2 Z for identification.  
18 Do you recognize that individual?

19 A Yeah; that's Carmine.

20 MS. MAYER: Judge, I offer it.

THE COURT: Any objection? It's admitted.

22 | (Government's Exhibit 2 Z received in evidence.)

23 Q You said that Carmine DeRoss was a plumber, is that  
24 right?

25 A Yes.

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1 Q Can you tell us, are there any specific incidents you  
2 remember of him providing you a tip about where you could  
3 get materials for Vincent DeMartino's house?

4 A Yes. There was one time he was doing some row houses  
5 on Hyland -- off Hyland Boulevard and he was there that  
6 day and he seen them putting the kitchens in, kitchen  
7 cabinets, stoves and everything, everything for a kitchen.  
8 And he called Vincent and told him where to meet him. So  
9 Vincent called, you know, everybody, us, John, Mikey  
10 Spats, himself and we went to this place with vans and it  
11 was nighttime and we had flashlights and screwdrivers, you  
12 know, battery pack screwdrivers. Whatever they installed  
13 that day, we uninstalled and put it in the truck and  
14 brought it to a warehouse until Chickie was ready to put  
15 them in his house.

16 Q So who was there that night with the flashlights and  
17 the screwdrivers?

18 A It was myself. It was I believe John Cerbone, Mikey  
19 Spats, Carmine, and Chickie.

20 Q Now, directing your attention to April and May of  
21 2001, did you have a discussion with Vincent DeMartino  
22 about Joseph Campanella?

23 A Yes.

24 Q Where were you?

25 A I was by his house in Queens. We were working on his

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1 house.

2 Q What did Vincent DeMartino tell you about Joseph  
3 Campanella?

4 A What did he tell me?

5 Q Yes.

6 A I don't understand what you are saying, what you  
7 mean, what did he tell me.

8 Q You said you had a discussion with Vincent DeMartino.  
9 What happened in the discussion?

10 A Well, he told me if I would -- if I would be -- he  
11 basically asked me if I would be involved in killing Joe  
12 and if I did do this, that I wouldn't owe the family any  
13 money anymore.

14 Q When Vincent DeMartino said you wouldn't owe the  
15 family any money, what did you understand him to mean,  
16 what family?

17 A The Colombo family.

18 Q What money did you understand him to be referring to?

19 A The loan-sharking money.

20 Q What, if anything, did Vincent DeMartino tell you  
21 about why Joseph Campanella was to be killed?

22 A Because he thought he was a rat.

23 Q What did you understand the term "rat" to mean?

24 A Cooperating with the government.

25 Q What, if anything, did Vincent DeMartino tell you

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1 about who ordered the murder of Joseph Campanella?

2 A He told me that it came from Allie Boy and Jack  
3 DeRoss.

4 Q When Vincent DeMartino told you that the order to  
5 kill Campanella came from Allie Boy and Jack DeRoss, who  
6 did you understand Allie Boy to be?

7 A The boss of the family.

8 Q Had you ever met Alphonse Persico at that point?

9 A Never.

10 Q Was that the only time that you discussed who the  
11 order came from?

12 A No.

13 Q What else did Vincent DeMartino tell you about who  
14 the order came from?

15 MR. LaRUSSO: Can we have a time frame please,  
16 your Honor?

17 MS. MAYER: Judge, I believe I asked him at the  
18 beginning of these questions; it was April and May 2001.

19 THE COURT: Is that the time frame we are  
20 talking about?

21 THE WITNESS: Yes.

22 Q Who else -- sorry, I lost my question.

23 You said that this was not the only time that  
24 you spoke with Vincent DeMartino about who ordered the  
25 murder of Joseph Campanella.

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1 A No.

2 Q What else did Vincent DeMartino tell you on other  
3 occasions about where the order to kill Campanella came  
4 from?

5 A Well, I used to question Chickie. I questioned him  
6 on that because of, you know, other incidents that I was  
7 involved in in the family about lies and I didn't want to  
8 get caught up between, you know, a couple of maniacs  
9 again, you know, trying to kill each other. So I  
10 questioned him, you know, is this, you know, come from,  
11 you know, is it a sanctioned hit basically. He reassured  
12 me a few times this came from the top. So, you know, it  
13 was a couple of times he told me that.

14 Q When Vincent DeMartino told you that it came from the  
15 top, what did you understand him to mean?

16 A That it came from Allie Boy, the boss, and Jack  
17 DeRoss.

18 Q What did you understand Jack DeRoss' position was?

19 A The underboss.

20 Q Where would you have these other conversations with  
21 Vincent DeMartino when he would talk to you about the  
22 order coming from the top?

23 A We used to drive around a lot. We spent a lot of  
24 time in the car, in his truck. And when he used to tell  
25 me sensitive information like that, it was never just like

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1       me talking to a regular person, it was always he would  
2       crank up the radio and tell me.

3       Q      Why did you understand him to turn up the radio?

4       A      Because we always assumed that our cars were bugged  
5       by the FBI.

6       Q      What was your position in the Colombo family at this  
7       point?

8       A      I was an associate.

9       Q      As an associate in the Colombo family, what was your  
10      understanding of what could have happened to you if you  
11      tried to kill Joseph Campanella without permission from  
12      the boss?

13      A      I would be killed.

14      Q      What was Joseph Campanella's position in the Colombo  
15      family?

16      A      He is a made member of the family.

17      Q      Now, again, directing your attention to 2001, were  
18      you present for a conversation between Michael Spataro and  
19      Vincent DeMartino regarding Joseph Campanella's criminal  
20      activities?

21      A      Yes.

22      Q      Tell the jury what happened.

23      A      Basically they were conducting an investigation on  
24      how much money Joe had out on the street, loan-shark or  
25      any other businesses that he was involved in, who was

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1 paying him, you know. We were trying to find out, you  
2 know, how much money people owed him and how much money he  
3 owed and after they killed him, they could go to whoever  
4 owed him the money and collect it.

5 Q Where did this conversation occur?

6 A In Mikey Spat's collision shop.

7 Q Do you remember the name of the shop?

8 A I think it was Narrows.

9 Q Where was it?

10 A It was -- it's between -- I think it's 7th and 8th  
11 Avenue and 64th Street in Brooklyn.

12 Q Did there come a point in 2001 where you went with  
13 Vincent DeMartino to get a cell phone?

14 A Yes.

15 Q Approximately when in 2001?

16 A Probably around the same time of April or May.

17 Q Where did you go to get the phone?

18 A We went outside, you know, our regular neighborhood  
19 which is Bensonhurst or Queens to purchase the phone.

20 Q What kind of phone was it?

21 A It was a prepaid telephone.

22 Q What do you mean when you say "prepaid"?

23 A It's a type of phone that you can buy where you don't  
24 give your real name, it has no ties to you whatsoever.  
25 You can give a fake name, you know, right when you buy the

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1 phone.

2 Q Were you with Vincent DeMartino when he gave his  
3 name?

4 A Yes.

5 Q Did he give his real name?

6 A No. We made up a name right there.

7 Q Do you remember what name it was?

8 A No, I don't remember.

9 Q What, if anything, did Vincent DeMartino say to you  
10 about why he needed this telephone, this prepaid  
11 telephone?

12 A He wanted everybody to call him on the phone, myself  
13 included.

14 Q When you say "everybody," who do you mean?

15 A Everybody associated in our crew. Everybody that had  
16 business dealings, criminal activities, with Vincent.

17 Q Did you have a cellular telephone in the spring of  
18 2001?

19 A Yes.

20 Q Whose name was on the account of your telephone, the  
21 telephone you used?

22 A It was my wife.

23 Q What's her first name?

24 A Maria.

25 Q Did you have a cell -- did your cell phone have an

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1 electronic memory where you could store telephone numbers?

2 A Yes.

3 Q Did you store Vincent DeMartino's prepaid cell phone  
4 number in your electronic memory?

5 A Yes, I did.

6 Q Under what name did you list it?

7 A Chickie.

8 Q What was your role in the Campanella murder plot,  
9 what was your job?

10 A My job was to basically get a lead on Joe, follow him  
11 around and find out where he -- find out his routine, his  
12 daily routine, on a daily basis.

13 Q Did you do that?

14 A Yes.

15 Q How did you do it?

16 A Well, I followed him around to the gym and, you know,  
17 I drove. I used to change cars because I knew Joe so he  
18 wouldn't recognize me. And I basically followed him  
19 around to the gym. I followed him to the beach. I  
20 followed him to his office. I followed him to his  
21 girlfriend's house. Every time I followed him, I would  
22 find out a new place that he would go to regularly.

23 Q For how long before the attempt to kill Joseph  
24 Campanella did you follow him?

25 A For how long did I follow him?

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1 Q Yes. How many weeks or months?

2 A I followed him for a few weeks.

3 Q Would you follow him every single day?

4 A No.

5 Q I cut you off.

6 A No, I didn't. I wouldn't follow him every day  
7 because I was working and then I was, you know, robbing  
8 for Chickie at the time too.

9 Q Would there be days where you would wait for him and  
10 you wouldn't see him?

11 A Yeah. Yeah. There was many of those days.

12 Q You said you followed him for how long before the  
13 murder attempt?

14 MR. LaRUSSO: Asked and answered.

15 A A few weeks before.

16 Q In those weeks leading up to the attempted murder of  
17 Joseph Campanella, was Jackie DeRoss under any  
18 restrictions, as far as you know?

19 A Yes.

20 Q Explain that.

21 A Well, Jackie was under house arrest at that time.

22 Q Did you and Vincent DeMartino use any messengers to  
23 communicate with Jackie DeRoss at this time?

24 A Yes.

25 Q Why?

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1 A Because they couldn't meet. Chickie and Jackie  
2 couldn't meet and talk together because Jackie would  
3 violate.

4 Q Who did you and Vincent DeMartino use as messengers  
5 for Jackie DeRoss?

6 A The messages went -- if Chickie was sending a message  
7 to Jackie, the messages went from Chickie to Mikey Spats  
8 to Carmine to Jack DeRoss. If Jack was sending a message  
9 back, it would work in reverse, it would go from Jackie to  
10 Carmine to Michael to Chickie.

11 Q During that period of time, where you were following  
12 Joseph Campanella, did you ever give updates to Vincent  
13 DeMartino about your progress?

14 A Yes.

15 Q How often?

16 A Whenever I found something, you know, whenever I  
17 found something in Joe's schedule that was -- that he did  
18 almost every day which is like when I found out that he  
19 went to the gym every day of the week and he went there  
20 like, you know, at 8:00 in the morning and would stay  
21 there until 11:00, I would go back and tell Chickie so far  
22 I got that Joe goes to the gym at 8:00 at New York Sports  
23 Club in Brooklyn from 8:00 to 11:00.

24 Q Where would you give these updates to Vincent  
25 DeMartino? Would you do it in person or on the phone?

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1 A No, always in person.

2 Q Where in person would you meet?

3 A We would meet on the street. I would meet him by his  
4 house. I would meet him by the collision shop, Mikey's  
5 collision shop. You know, basically wherever he wanted me  
6 to meet him.

7 Q Was Michael Spataro ever present when you met with  
8 Vincent DeMartino to discuss your progress in following  
9 Joe Campanella?

10 A Yes.

11 Q For the times that Michael Spataro was there, where  
12 would the meetings take place?

13 A They would be in Mikey Spats's collision shop. Mikey  
14 was involved most of the time, it was in the collision  
15 shop.

16 Q When you say "most of the time," was there any other  
17 time that you can recall where Michael Spataro was  
18 present?

19 A Yes.

20 Q When was that?

21 A We had a meeting about an architect that I needed for  
22 one of my buildings in Staten Island and I met with  
23 Carmine and Mikey on Hyland Boulevard.

24 Q When you say Carmine, who do you mean?

25 A Jack's nephew.

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1 Q So you, Carmine DeRoss and Michael Spataro were all  
2 meeting about an architect?

3 A Yes. I needed an architect and Mike told me that  
4 Carmine had an architect and I met them in Hyland  
5 Boulevard, I don't remember exactly which street, and I --  
6 they told me which architect and Carmine had asked me, you  
7 know, how is it going with the Joe thing. And I told him,  
8 you know, I'm following him and I'm on him.

9 Q Did you ever have meetings with Carmine DeRoss and  
10 Vincent DeMartino about the Campanella murder plot?

11 A Yes.

12 Q Where was that?

13 A That was by Mickey's supermarket in Staten Island.

14 Q How did you get to that meeting?

15 A I drove Vincent.

16 Q Where did you go when you got there?

17 A In front of the -- in front of the supermarket, there  
18 is a parking lot and that's where we met up, in the  
19 parking lot.

20 Q Who did you see when you got to the parking lot with  
21 Vincent DeMartino?

22 A It was Carmine DeRoss.

23 Q Tell the jury what happened at this meeting.

24 A Well, we walked up to him and, you know, said hello.  
25 And Carmine said to Chickie: What's going on? The little

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1 guy wants to know, you know, what's going on. What's  
2 taking so long? And Chickie said: We are on it. We are  
3 doing what we have to do. We are on it.

4 Q When Carmine DeRoss said to Vincent DeMartino the  
5 little guy wants to know what's going on, why it's taking  
6 so long, who did you understand him to mean, "the little  
7 guy"?

8 A Well, the little guy is Jack DeRoss and he was --  
9 that was a code name like that we named Jack, for Jackie.  
10 Whenever we mentioned Jack DeRoss, whenever we mentioned  
11 "the little guy," we referred to Jackie. Everybody knew  
12 that. That was his name so the FBI wouldn't know who we  
13 were talking about.

14 Q Was there ever any problem with the messages?

15 A Yes.

16 Q How did you learn that there was a problem with the  
17 messages?

18 A I actually drove Chickie to a meeting with Carmine  
19 DeRoss and he was complaining that -- he was furious  
20 basically. He said he doesn't understand what the fuck is  
21 going on with the messages, they are getting fucked up,  
22 these guys are retarded. There was Michael or Carmine, he  
23 doesn't know who was screwing up the messages. So he told  
24 me to drive him to meet Carmine DeRoss so he could find  
25 out who was screwing up the messages.

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1 Q When you say he was upset the messages were getting  
2 screwed up and he asked me to drive him to a meeting who  
3 are you talking about?

4 A Vincent DeMartino, Chickie.

5 Q So did you in fact drive him to a meeting?

6 A Yes.

7 Q What happened when you got to the meeting?

8 A Well, I got there and Chickie got out of the car and  
9 he went and talked to Carmine.

10 MS. KEDIA: Can we get a time frame?

11 Q Approximately when was this?

12 A 2001.

13 Q Can you give us a month?

14 A Probably April or May. Everything I'm talking about  
15 right now was around there.

16 Q You said that Vincent DeMartino got out of the car  
17 and went to speak to Carmine DeRoss. Where were you?

18 A In the car. I stayed in the car.

19 Q So could you hear what they said?

20 A No.

21 Q Directing your attention to the first half of July of  
22 2001, what, if anything, happened to your cellular  
23 telephone?

24 A Got shut off.

25 Q Why?

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1 A I didn't pay the bill.

2 Q After your cellular telephone was shut off, how would  
3 you contact Vincent DeMartino?

4 A Pay phones.

5 Q Directing your attention for July 13 of 2001, did you  
6 follow Joseph Campanella that day?

7 A Yes, I did.

8 Q Were you driving a car?

9 A Yes. I was driving my Ford Windstar.

10 Q What kind of a car is a Windstar?

11 A It's a mini van.

12 Q What color is it?

13 A Green.

14 Q Did there come a time that day on July 13 where you  
15 saw Joseph Campanella at his office?

16 A That Friday, yes, I was following Joe and I seen him  
17 by his office. The office was on -- I believe it was on  
18 17th Avenue in Brooklyn. And I seen his car there and I  
19 seen the door open and I figured he was inside. So I went  
20 to a pay phone and I called Chickie and I told him where I  
21 was and he told me that he would meet me there.

22 Q Do you recall where you went to use the pay phone?

23 A I think there was a pay phone like around the corner.

24 Q Around the corner from where?

25 A Matter of fact, I'm sorry, it wasn't around the

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1 corner. I think it was a couple of blocks away and it was  
2 on 17th, the pay phone.

3 Q Did you speak with Vincent DeMartino?

4 A Yes.

5 Q What happened? What did Vincent DeMartino tell you  
6 on the phone?

7 A That he was going to come down and meet me and I told  
8 him where I was going to park and he was going to meet me  
9 there.

10 Q Did Vincent DeMartino in fact come and meet you that  
11 afternoon?

12 A Yes.

13 Q What did you and he do?

14 A Well, he approached the car. He got in and when he  
15 got in, I noticed that he had the gun. He had a gun in  
16 his waistband because he adjusted it as he got in the car.  
17 When he got in, we started driving around the block just  
18 to make sure Joe was in his office and now Joe's office  
19 was on my left-hand side, I was on the opposite side of  
20 the street when I was driving.

21 So as we passed by Joe's office, there was --  
22 his door was open and there were a couple of shadows  
23 inside. And we were looking in and Chickie was looking  
24 over me basically looking in. And on the corner I noticed  
25 that there was a black Jeep Cherokee and I told him, I

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1 said: I think that's Richie Cappa's car, his Jeep. And  
2 basically that's what happened, you know, that day.

3 Q So what did you do after you noticed that it was  
4 Richie Cappa's car you thought on the street?

5 A Well, I was telling Chickie that I told him that  
6 Richie Cappa's truck was there because I'm thinking that  
7 Chickie was going to, you know, go in there and kill Joe  
8 then but I wanted to tell him that it might be that that  
9 is Richie's Jeep so if he goes in there, he is not going  
10 to be alone. And basically we drove away.

11 Q Now, directing your attention to July 16 of 2001, do  
12 you recall what day of the week that was?

13 A July 16, 2001, yes. Oh, yeah.

## 14 Q What day - -

15 A That was a Monday.

16 Q Tell us how that day began for you.

17 A I woke up early that day and I lived in Staten Island  
18 and I drove to Brooklyn, to the gym where I thought Joe  
19 was going to be because I knew his routine. And I drove  
20 there. And there was a parking lot in front of the gym.  
21 I knew Joe's car. He had a white Mercedes. I knew his  
22 license plates. And I seen his car. And I drove probably  
23 like a block down and there is an amusement park there and  
24 there is a parking lot and a pay phone. And I called  
25 Chickie and told him that Joe was at the gym and where I

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1 was parked.

2 Q Now, you said that you were driving a car. What car  
3 were you driving that day?

4 A I had the mini van, the Ford Windstar.

5 Q Who is that car registered?

6 A My wife.

7 Q You said that you drove about a block away to an  
8 amusement park. What was the name of that amusement park?

9 A I don't remember. I think it was -- I think it was  
10 Nelly Bly. The only reason I know that, I used to go  
11 there as a kid.

12 Q You said that you called Vincent DeMartino and you  
13 told him where you were?

14 A Yes.

15 Q What did Vincent DeMartino tell you on the phone?

16 A I told him where I was going to be and he told me he  
17 was going to meet me there.

18 Q Approximately how long -- how many minutes passed  
19 between your telephone call with Vincent DeMartino and  
20 when Vincent DeMartino showed up?

21 A I would say about -- within 45 minutes.

22 Q How did he get there?

23 A Well, he got dropped off. He got dropped off by  
24 Mikey Spats.

25 Q You say he got dropped off by Mikey Spats. How do

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1 you know it was Mikey Spats, could you see him?

2 A No, I didn't see him at first. I seen Chickie get  
3 out of the car with a bag and he came towards the mini van  
4 and he got in and he had the bag with him and I asked him.  
5 I said, you know, who dropped you off because I wanted to  
6 know, you know, who was driving him. I couldn't notice  
7 who it was. And he told me it was Mikey Spats.

8 Q You said when Vincent DeMartino came to your mini  
9 van, he had a bag. What was in the bag?

10 A In the bag there was two hats, gloves, and jackets.

11 Q Did Vincent DeMartino have anything else with him  
12 that day?

13 A Yes, he showed me the .38-caliber gun and he told me  
14 this is the gun that Jack had given him to kill Joe.

15 Q When Vincent DeMartino told you that this was the gun  
16 that Jack had given him, who did you understand Jack to  
17 be?

18 A Jack DeRoss.

19 Q Did you see Joseph Campanella come out of the gym  
20 that day, July 16, 2001?

21 A Eventually, yes.

22 Q Approximately what time was it?

23 A I think it was around 11:00, 11:30.

24 Q What did you and Vincent DeMartino do when you saw  
25 Joseph Campanella come out of the gym?

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1 A Well, I watched Joe pass by, drive by and then I  
2 started following him. I knew where he was going. He was  
3 going to the beach. But we followed him to the beach and  
4 we watched him park his car on Surf Avenue and we watched  
5 him go on the beach with his beach chair and we basically  
6 waited.

7 Q You say that you knew where Joseph Campanella was  
8 going. How did you know that?

9 A Because I been following Joe. I know his whole  
10 routine.

11 Q Now, you said you saw Joseph Campanella go on the  
12 beach. About how long did he usually stay on the beach  
13 from his routine?

14 A He would stay there a few hours. He would, you know,  
15 I think he would stay there until about 2:00, 3:00.

16 Q So after you saw Joseph Campanella go onto the beach  
17 with his beach chair, what, if anything, did you and  
18 Vincent DeMartino do?

19 A We basically just waited there. We drove around a  
20 little bit and we were bullshitting and just waiting.

21 Q At some point while you were driving around with  
22 Vincent DeMartino, did he tell you to go somewhere?

23 A Well, we were parked and out of nowhere Chickie says  
24 that -- take me to my mother's house, I want to go get the  
25 big one, I want to go get the big one. I said all right.

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1 So I drive him to his mother's house.

2 Q Where was his mother's house?

3 A It was in Brooklyn. It was on 66th Street and  
4 Utrecht Avenue.

5 Q About how long did it take you to get there?

6 A About ten minutes, ten minutes from the beach.

7 Q When Vincent DeMartino told you he wanted to go get  
8 the big one, what did you understand him to mean?

9 A A the bigger gun. He had a bigger gun.

10 Q Did Vincent DeMartino go to his mother's house?

11 A Yeah. I drove him to his mother's house. He went in  
12 the basement and he came out with a towel and he came out  
13 with a .357.

14 Q What did you do after Vincent DeMartino came back to  
15 the mini van with the .357?

16 A We drove back to the beach and I made sure that Joe  
17 was still there, I seen his car still there and we  
18 basically parked the car, parked the mini -- I parked the  
19 mini van on a dead-end street and we basically waited for  
20 Joe to come off the beach.

21 Q Now, you said you made sure Joe was there, you saw  
22 his car there. Had his car been moved or did it look like  
23 it was in the same spot?

24 A It was in the same spot.

25 Q Once you got back to the area of the beach, what, if

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1 anything, did you do with the stuff that was in the bag?

2 A We put it on. When I parked at the dead-end street,  
3 we put on, you know, the hat, the glasses, the jacket and  
4 I got out of the car and I covered my license plates also  
5 with black bags.

6 Q You said "with black bags"?

7 A Yeah; with black garbage bags.

8 Q Why did you do that?

9 A So when we would shoot Joe, no one could see the  
10 license plates.

11 Q Did there come a time where you saw Joseph Campanella  
12 come off the beach on July 16, 2001?

13 A Eventually. About 2:30, 2:00, 2:30, I don't remember  
14 the exact time but it was around there. We started seeing  
15 Joe head off the boardwalk, walking -- his car was -- he  
16 had a nice walk, you know, a walk pretty far. And we  
17 watched him walk off the beach. And at this time, I  
18 pulled the car on the Surf Avenue so we were parallel to  
19 -- I was on the same side of the street as his car.

20 So eventually Joe made it to his car, and as he  
21 was opening his trunk, I started pulling up slowly on him  
22 and his back was to us. When I pulled up to Joe, he  
23 didn't know we were there. And Chickie had the 357  
24 wrapped in the towel and the window was down and he yelled  
25 out, he said hey, Joe. And Joe turned around. And

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1 Chickie started firing the gun at him. And he just kept  
2 shooting him, bang, bang, bang, and I heard Joe moaning,  
3 and I seen him hit the floor, and Chickie is still  
4 shooting at him, and I'm looking, when Joe was on the  
5 floor, all of a sudden I see him like jump up and start  
6 running zigzag motion, and Chickie is still firing, and  
7 now Chickie grabs -- he is going to get out of the car  
8 while Joe starts running towards the back of the van and  
9 Chickie goes to get out of the car and is still shooting  
10 him out the window, and I grab him and I hit the gas and I  
11 took off.

12 Q You said you could see that Joseph Campanella got up  
13 and ran towards the back of the van?

14 A Yes.

15 Q You hit the gas and drove away?

16 A Yes.

17 Q As you drove away from where Vincent DeMartino had  
18 just shot Joseph Campanella, what, if anything, did  
19 Vincent DeMartino do?

20 A Immediately, as soon as I took off, Chickie got on  
21 the phone. He started dialing, you know, the phone. And  
22 he got on the phone and he says hey, Mike, tell them that  
23 we missed. Call him. Tell him that we missed. And he  
24 just kept dialing. And I just was focused on driving, but  
25 he was, you know, frantic. He is yelling over the phone.

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1 And he just kept dialing. That's all I remember, until he  
2 told me where his car was parked.

3 Q You said you saw him dialing the phone and talking  
4 saying tell him we missed. Do you know if Vincent  
5 DeMartino was speaking to a person or if he was leaving a  
6 voicemail message?

7 A No, I couldn't tell.

8 Q Where did you go after that?

9 A Well, he told me his car was parked on Bay  
10 40-something Street. That was near my mother's house. I  
11 drove him there, and when he got out of the car, he told  
12 me that he was going to get rid of the guns and for me to  
13 get rid of the clothing, the glasses and the hat and the  
14 jackets.

15 So he got out of the car and I drove to my  
16 mother's house, and before I went to my mother's house on  
17 the corner, there was a dumpster, like one of these  
18 construction dumpsters, and I threw the bag in there. I  
19 went to my mother's house just to calm down a little bit  
20 because of what I had just seen. Then I drove to Staten  
21 Island.

22 Q After Vincent DeMartino shot Joseph Campanella on  
23 July 16, 2001 and you were the driver for this drive-by  
24 shooting, did you ever get into trouble with the Colombo  
25 family?

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1 A For the shooting?

2 Q Yes.

3 A No.

4 Q As far as you know, did Vincent DeMartino get into  
5 trouble with the Colombo family for trying to kill Joseph  
6 Campanella?

7 A No.

8 Q After you were at your mother's house, where did you  
9 go next?

10 A I drove to Staten Island.

11 Q Where were you going?

12 A I was going home, that's where I lived, I lived in  
13 Staten Island.

14 Q Did there come a time that evening where someone came  
15 to your house?

16 A That night, yeah. I had gotten a visit from NYPD, I  
17 don't remember what precinct, and they wanted to know if I  
18 knew anything about a shooting that happened in Coney  
19 Island.

20 And I told them no, I don't know. And they said  
21 do you have a problem coming down to the precinct and  
22 answering a couple of questions, and I said no, I don't  
23 have a problem with that either. And I told my wife where  
24 I was going and I told her to call my lawyer.

25 Q So you went down to the precinct, and what did you

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1 tell the police about your whereabouts that day?

2 A They were questioning me in the room, and they kept  
3 asking me where I was and if I knew about the shooting,  
4 and I told them I didn't know anything about the shooting,  
5 that I was home in my pool all day.

6 Q Was that the truth?

7 A No.

8 Q Were you under arrest that night?

9 A No.

10 Q What ended your interview at the police station?

11 A While they were talking to me and asking me these  
12 questions, my attorney called and he wanted to talk to me.

13 So I got on the phone and I told him what was  
14 going on, and he told me if I'm not under arrest, ask them  
15 I'm under arrest, if I'm not, just to get up and walk out.  
16 And he wanted to talk to the detective over there.

17 So I handed him the phone, and I said, by the  
18 way, am I under arrest, and they said no. So I said all  
19 right, I'm leaving and I left. And I walked -- I left the  
20 precinct and I walked a couple of blocks to a pay phone,  
21 and I called my father to come pick me up because I rode  
22 with the cops, and then I called Chickie to tell him, you  
23 know, what happened.

24 Q After this attempted murder, you said you called  
25 Chickie to tell him that night?

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1 A Yes.

2 Q Why did you call him?

3 A I wanted him -- I wanted to let him know that I was  
4 just at the precinct and they were questioning me about a  
5 shooting that happened that day.

6 Q Now, after the July 16, 2001 attempt to kill Joseph  
7 Campanella, did you have any other discussions with  
8 Vincent DeMartino about making another attempt to kill  
9 Campanella?

10 A Yeah. Yes. I met Chickie -- I don't remember how, I  
11 think he told me to meet him by Mikey Spats's collision  
12 shop. I went there. When I got there, he was talking to  
13 Mikey Spats, and I seen Mikey Spats slip him a piece of  
14 paper, like on the DL, on the sneak, and I didn't think  
15 nothing of it until later on when me and Chickie left and  
16 I got into his van and he gave me the same piece of paper.

17 And on the paper, it was the vicinity of where  
18 Joe Campy lived, and he told me that if I -- if you get  
19 another shot at Joe, to take it, to kill him because I  
20 think he seen who shot him.

21 Q As you sit here today, do you remember what was  
22 written on that piece of paper, what the address was?

23 A It was an address of where Joe lived. I don't  
24 remember exactly.

25 MS. KEDIA: Sorry, did we get a time frame?

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1 MS. MAYER: That's my next question.

2 Q When did this happen, this meeting with Vincent  
3 DeMartino at Michael Spataro's shop?

4 A After the shooting of Joseph Campanella.

5 Q About how long after?

6 A A couple of weeks.

7 Q When you first spoke with the government, did you  
8 ever tell them it was before the attempt to kill Joseph  
9 Campanella?

10 A Yes.

11 Q Was that done intentionally or by mistake?

12 A No, that was just a mistake.

13 Q Did you ever try to find Joseph Campanella to make  
14 another attempt after July 16 of 2001?

15 A No.

16 Q Were you ever arrested for the conspiracy to murder  
17 Joseph Campanella?

18 A Yes.

19 Q When?

20 A I was arrested -- we were arrested February 28 of  
21 2003, I believe.

22 Q When you say "we," who else was arrested?

23 A Me and Chickie, Vincent DeMartino.

24 Q Who arrested you?

25 A The FBI.

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1 Q What were you charged with?

2 A We were charged with conspiracy to commit murder in  
3 aid of racketeering and 924C, which is a gun charge, and  
4 there is another charge, I just don't remember it.

5 Q Where was your case?

6 A It was in Brooklyn Federal Court.

7 Q Now, after you were arrested on February 28 of 2003,  
8 were you held in jail or were you released on bail?

9 A I was released that day, same day I made bail.

10 Q What about Vincent DeMartino, was he released on bail  
11 or held in jail?

12 A No, he was held in jail.

13 Q When was your trial?

14 A We went to trial May of 2004.

15 Q During that time frame, from February of 2003 to May  
16 of 2004, did you ever see Michael Spataro?

17 A Yes.

18 Q Why did you meet with Michael Spataro during that  
19 time?

20 A Over Chickie's loan-sharking business and basically  
21 send messages from Chickie to Michael.

22 Q Where would you meet Michael Spataro?

23 A I would meet him by his house in Staten Island or his  
24 collision shop.

25 Q And you said that you would pass messages to Vincent

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1 DeMartino?

2 A Yeah. Yes.

3 Q How did you do that?

4 A Well, I was a co-defendant, me and Chickie were  
5 co-defendants. The only way for me to get in to see  
6 Chickie was to have the lawyers set up co-defendant  
7 meetings, and we have this kid, this lawyer, John  
8 Maringalo, set up meetings where I can go up and meet with  
9 Chickie, and we would discuss -- he would tell me, you  
10 know, who to collect money from, to tell Mike to collect  
11 from this one and he would give direction.

12 Q And you said you would go up to meet Chickie. Where  
13 would you go to have these co-defendant meetings?

14 A Chickie was housed in MDC Brooklyn.

15 Q What's the MDC Brooklyn?

16 A It's a prison.

17 Q Now, you said that you were out on bail during this  
18 time, is that right?

19 A Yes.

20 Q As part of the conditions of your bail, were you  
21 supposed to be continuing criminal activity?

22 A No.

23 Q Did you violate your bail conditions?

24 A Yes.

25 Q How?

Florida - Direct/Mayer

2344

1 A Because I was still collecting. I was doing things  
2 for Chickie, basically sending messages and still running  
3 his day-to-day activities.

4 Q Are you familiar with someone named Tony the Arab?

5 A Yes.

6 Q Were you involved in a plan to have Tony the Arab  
7 introduce false testimony to help you and Vincent  
8 DeMartino at your trial?

9 A Yes.

10 Q Tell us about that plan.

11 A Well, Tony had owed Chickie \$10,000 loan-shark money  
12 and he started having a problem paying. Michael was  
13 collecting the money from Tony and he started having a  
14 problem collecting the money, so he told me to tell  
15 Chickie that he is having a problem collecting the money.

16 We set up a co-defendant meeting and I told him  
17 Tony was having a problem, Michael was having a problem  
18 collecting money from Tony. And Chickie came up with this  
19 plan. He said to have Tony say that he used -- Tony used  
20 to hang out with Joseph Campanella, the guy that we shot.  
21 He used to hang out, he was friends with him. And Chickie  
22 said to meet with Tony and to have him say that when he  
23 was with Joe, that Joe told him that the Russians are the  
24 ones who shot him. And if he would testify in our case to  
25 -- that Joe told him that the Russians was the ones that

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2345

1 shot him.

2 If he did this, that he wouldn't owe the money,  
3 you know, to him, the loan-shark money. So he wanted me  
4 to tell this to Michael so he could take Tony to the  
5 lawyers. So after the meeting with Vincent, I went and  
6 seen Michael and told him what Vincent had told me. And  
7 he tried to get in touch with Tony but he was having a  
8 hard time getting ahold of Tony, so he told me to contact  
9 him.

10 So through my connections, I found Tony. And I  
11 told him to meet me in Staten Island near Outerbridge  
12 Crossing, and I told him to go for a walk in the woods and  
13 when we were in the middle of the woods, I told him that  
14 when you were with Joseph Campanella -- I didn't say  
15 Joseph, I said when you were with Campy, didn't Campy tell  
16 you, didn't you say that Campy said that the Russians are  
17 the ones that shot him?

18 He looked at me and I said didn't he say that?  
19 I'm basically telling him what to say. And he said yeah.  
20 I told him Mike was going to get in touch with you and he  
21 is going to take you to Manhattan to the lawyers and you  
22 are going to testify in our case to say that Joe Campy  
23 told you the Russians are the ones who shot him and he  
24 said no problem, so that's how I left it off. I left it  
25 to Michael to get in touch with him.

Florida - Direct/Mayer

2346

1 Q When you say Michael, who do you mean?

2 A Mikey Spats.

3 Q Now, was your case -- you said you went to trial in  
4 your case?

5 A Yes.

6 Q Was it a jury trial?

7 A Yes.

8 Q Were you the only defendant in the case?

9 A No, it was me and Chickie.

10 Q Did Joseph Campanella testify at your trial?

11 A Yes.

12 Q What did he say about who shot him?

13 A He said that Chickie shot him and that I was driving.

14 Q Was that the truth?

15 A Yes.

16 Q What was the result of your trial?

17 A It was a guilty verdict.

18 Q Following your conviction, what, if any, decision did  
19 you make?

20 A I decided to cooperate with the government.

21 Q About how long after you were convicted did you make  
22 that decision?

23 A Well, we got convicted May -- I believe it was May 6  
24 of 2004, and the first meeting I had -- the very first  
25 meeting I had with the government was, I believe,

Floridia - Direct/Mayer

2347

1 September 17 of 2004.

2 Q You said that you had a meeting. That first meeting,  
3 did you have a cooperation agreement with the government?

4 A No. No.

5 Q What was the purpose of that meeting?

6 A It's called a proffer meeting, so you go to the  
7 meeting and you let them know what crimes you committed  
8 and what you have committed, what crimes, who you have  
9 done them with, and they decide if they are going to take  
10 you, I guess.

11 Q Did you eventually enter into a cooperation agreement  
12 with the government?

13 A Yes.

14 Q Is it a written agreement?

15 A Yes.

16 Q Why did you decide to cooperate?

17 A I wanted to change my life and I wanted to get a  
18 reduction in time, hopefully get a reduction in time.

19 Q Now, once you began your cooperation, were you  
20 completely truthful with the government?

21 A Yes.

22 Q Did you discuss your own crimes?

23 A I told them every crime that I was ever involved in  
24 and who I was involved with, who did the crimes with me.

25 Q Did you talk about people in the Colombo family?

Florida - Direct/Mayer

2348

1 A Yes.

2 Q Did you talk about people in other crime families?

3 A Yes.

4 Q As part of your cooperation, did you admit your guilt  
5 on the crimes that you went to trial on?

6 A Yes.

7 Q Did you plead guilty to an additional charge as part  
8 of your agreement?

9 A Yes.

10 Q What was the additional charge?

11 A I believe it's the RICO conspiracy in loan-sharking  
12 and robbery.

13 Q When you say RICO, what do you understand that to be?

14 A Racketeering -- I really don't remember. I know it's  
15 mob-related.

16 Q Now, you told the jury that you were involved in  
17 loan-sharking, illegal gambling. When you were involved  
18 in that, did you pay all the taxes that you owed?

19 A No.

20 Q As part of your agreement, what do you have to do  
21 with regard to your taxes?

22 A I have to revise my taxes from 1996 all the way to  
23 2003, all the money I ever made.

24 Q Have you been sentenced in your case?

25 A No.

Florida - Direct/Mayer

2349

1 Q Do you know what the maximum sentence the judge can  
2 give you is?

3 A Life.

4 Q What's your promise under the agreement, what do you  
5 promise to do?

6 A I promise to take the stand when they need me and to  
7 tell the truth.

8 Q If you abide by the terms of your agreement, what's  
9 your understanding as to what the government will do for  
10 you?

11 A The government will write a 5K1 letter, which allows  
12 the judge to sentence me below the sentencing guidelines.

13 Q Will the government recommend a particular sentence  
14 for you?

15 A No.

16 Q Who decides what your sentence will be?

17 A The judge.

18 Q Is the judge required to give you a lower sentence?

19 A No.

20 Q As part of your sentence, can you be fined?

21 A Yes.

22 Q Who decides the fine?

23 A The judge.

24 Q What happens under your cooperation agreement if you  
25 lie?

Florida - Direct/Mayer

2350

1 A They will rip it up and they will charge me with  
2 additional crimes and all the crimes that I told them  
3 about.

4 Q And if the government rips up your agreement, can you  
5 take back your guilty plea?

6 A No.

7 Q Does the result of this case or any case have any  
8 impact on whether or not you get the letter?

9 A No.

10 MS. MAYER: Judge, may I approach the witness?

11 THE COURT: Yes.

12 Q I'm showing you what's marked 3500 GF 1. Can you  
13 take a look at that?

14 A Yes.

15 Q Can you look at the last page?

16 A Okay.

17 Q Is that your signature on the page?

18 A Yes.

19 Q What is this document?

20 A This is my cooperation agreement.

21 Q How do you recognize it?

22 A Because I read it. I went through it with my lawyer  
23 and I signed it.

24 MS. MAYER: Judge, I offer 3500 GF 1.

25 MS. KEDIA: No objection.

Floridia - Direct/Mayer

2351

1 MR. LaRUSSO: No objection, your Honor.

2 THE COURT: Received in evidence.

3 (Government Exhibit 3500 GF 1 received in  
4 evidence.)

5 Q Where do you currently reside, Mr. Floridia?

6 A Prison.

7 Q When did you go to jail?

8 A May 6 of 2004.

9 Q What facility were you sent to on May 6 of 2004?

10 A MDC Brooklyn.

11 Q At that time, were you still associated, were you  
12 still an associate in the Colombo family?

13 A Yes.

14 Q Were you cooperating with the government yet?

15 A No.

16 Q Who, if anyone, from the Colombo family was in the  
17 same unit with you at the MDC unit?

18 A Jack DeRoss.

19 Q Was anyone else in that unit besides you and Jack  
20 DeRoss from the Colombo family?

21 A No, it was just me and Jack from the Colombo family.

22 Q There were other members of the mob in your unit?

23 A Yes.

24 Q Who?

25 A There was Patty DeFilippo, Peter Calabrese, Jimmy the

Florida - Direct/Mayer

2352

1 General, they were all from the Bonanno family.

2 Q Are you familiar with the term "stand up"?

3 A Yes.

4 Q What does that mean?

5 A That means you are a stand-up guy, you are not a rat  
6 basically.

7 Q When you went to the MDC in May of 2004, were you  
8 being a stand-up guy?

9 A Oh, yeah, I went to trial with Chickie and I got  
10 convicted. I was very stand up.

11 Q Did Jackie DeRoss ever talk to you about being a  
12 stand-up guy when you were in jail with him?

13 A Well, he had made a comment to Jimmy the General that  
14 this kid is made of steel, he will never cooperate, he  
15 will never rat.

16 Q When Jackie DeRoss said this kid is made of steel,  
17 who did you understand him to be talking about?

18 A He was talking about me.

19 Q Did you have a bed in your unit at the MDC?

20 A Yes.

21 Q How far was your bed from Jackie DeRoss's bed?

22 A I was probably about -- it was about four cells away  
23 from Jackie's.

24 Q Did you eat meals with Jackie DeRoss when you were  
25 together at the MDC?

Florida - Direct/Mayer

2353

1 A Every day.

2 Q Would you play cards with Jackie DeRoss when you were  
3 at the MDC?

4 A Every day.

5 Q Would you talk with Jackie DeRoss when you were  
6 together at the MDC?

7 A Every day, that's all we did, that's all you can do.

8 Q How much time would you spend together?

9 A Basically from waking up 'till lockdown. I mean, of  
10 course, you go on the phone, you take showers, we weren't  
11 constantly together, but we were together a lot.

12 Q Would you discuss Colombo family matters?

13 A Yes.

14 Q Would you discuss things besides the Colombo family?

15 A Yes. We had many -- we talked a lot, a lot of  
16 conversation.

17 Q What kinds of things would you talk about?

18 A We talked about our families. We talked about cases  
19 that were going on. We talked about, you know, the  
20 Colombos. We talked about Vincent DeMartino. We talked  
21 about many things.

22 Q When you discussed Colombo family matters, explain  
23 how that would come up in conversation.

24 A Well, it would be me and Jack in his cell, and he  
25 would question me on my trial. Like he didn't understand

Floridia - Direct/Mayer

1 why he would get mad at Chickie, he didn't understand why  
2 Chickie made so many phone calls after the shooting to his  
3 nephew or to Michael. He didn't understand because he  
4 could have violated him. He was under house arrest. And  
5 he -- I mean, he was just angry at him.

2354

6 Q Well, when you say that Jackie DeRoss said he didn't  
7 understand why Vincent DeMartino made so many phone calls  
8 to Carmine DeRoss and Michael Spataro because it could  
9 have violated him, who did you understand was possibly  
10 going to be violated?

11 A He was going to violate Jack DeRoss. I mean, he was  
12 concerned because it could have blew his bail when he was  
13 on house arrest.

14 Q Explain to the jury why would it have jeopardized his  
15 bail, these phone calls?

16 A Because it put him in the middle of it, you know, by  
17 him making these phone calls, he put Jack in the middle of  
18 it and they had a trail.

19 Q Did Jackie DeRoss ever tell you anything else about  
20 the Campanella murder plot when you were together?

21 A Yes. He told me he didn't understand why Chickie did  
22 this on his own, meaning me and him did it on our own, and  
23 how he was supposed to wait for the Colombo -- for the  
24 Long Island guys. He didn't stick to the plan. He wanted  
25 all the glory, now he has to do all the time. When you

Florida - Direct/Mayer

2355

1 start a job, when you start something, you gotta finish  
2 it. When we would get into conversations like that,  
3 that's what he would tell me.

4 Q When Jackie DeRoss would tell you that Vincent  
5 DeMartino, he didn't understand why Vincent DeMartino  
6 didn't wait for the Long Island guys, did you know who he  
7 was talking about?

8 A I don't know any Long Island guys. I didn't know  
9 that there was a bigger plan, so I didn't know that.

10 Q When you say you didn't know, when didn't you know  
11 it?

12 A I didn't know it at the time that it was happening,  
13 but now that Jackie -- I was with him, you know, he  
14 started filling me in.

15 Q So when Jackie DeRoss told you that Chickie didn't  
16 follow the plan, what did you understand him to mean?

17 A That obviously the plot to kill Joe, that he didn't  
18 follow it, he wanted do it on his own like a renegade,  
19 like he wanted to do it on his own, that he did the hit by  
20 himself and he didn't stick to the plan that they had,  
21 that's what he meant.

22 Q During your time together with Jackie DeRoss, did you  
23 ever discuss Billy Cutolo?

24 A Yes.

25 Q Explain how that came up in your conversations.

Florida - Direct/Mayer

2356

1 A These are conversations that didn't happen in one  
2 sitting. I was with -- we talked every day. So there  
3 would be stuff that Jack would say, like he would tell me  
4 he brought Billy into the family. He made him shave his  
5 moustache and he took him out of the family. Things like  
6 that.

7 That he was his captain, and back then he was  
8 mad when he came home from prison, when Jack came home  
9 from prison, Billy was supposed to step down and he didn't  
10 and it made Jack angry.

11 Q Let me go through that. You said that Jackie told  
12 you that he was his captain. Explain that. Who was whose  
13 captain?

14 A That Jack DeRoss was Billy's captain, meaning that he  
15 brought him into the family, like I guess made him into  
16 the family like that, that he was like his sponsor.

17 Q Did Jackie DeRoss -- Billy at some point took over as  
18 a captain?

19 A Billy, from what he told me, took over when he went  
20 to prison.

21 Q What happened when Jackie DeRoss came out of jail,  
22 according to Jackie?

23 A Yes. That he didn't step down, where Jackie was  
24 supposed to take his position back and Billy didn't give  
25 it up.

Floridia - Cross/Kedia

2357

1 Q What was Jackie DeRoss's reaction to that?

2 A He was angry, you know. He was basically venting to  
3 me.

4 Q And you said that Jackie DeRoss told you that I  
5 brought Billy into the family?

6 A And he took him out of the family.

7 Q What did you understand him to mean when he told you  
8 that?

9 A That he brought him in and he killed him by taking  
10 him out.

11 MS. MAYER: Judge, if I can have a moment.

12 THE COURT: Sure.

13 (Pause)

14 MS. MAYER: I don't have any additional  
15 questions.

16 CROSS-EXAMINATION

17 BY MS. KEDIA:

18 Q Mr. Floridia, you testified that various people were  
19 involved in a conspiracy to murder Joseph Campanella  
20 yesterday, right?

21 A Yes.

22 Q Do you recall that?

23 A Yes.

24 Q You testified that those people included you, right?

25 A Yes.

Floridia - Cross/Kedia

2358

1 Q Chickie DeMartino, Michael Spataro, Carmine DeRoss  
2 and Jackie DeRoss, right?

3 A Yes.

4 Q Then you were asked anyone else?

5 A Yes.

6 Q You said yeah, Allie Boy, the boss, right?

7 A Yes.

8 Q Now, let me show you what's in evidence as  
9 Defendant's AJ. Do you recognize the person depicted in  
10 this photograph?

11 A I really can't see that far. I think that's Allie  
12 Boy. Looks like Allie Boy.

13 Q How do you recognize him?

14 A What do you mean?

15 Q How do you recognize the person?

16 A I just know Allie Boy.

17 Q How do you know Allie Boy?

18 A I don't know.

19 Q You have never met Allie Boy before, right?

20 A No.

21 Q You never spoke to Allie Boy before?

22 A Never.

23 Q Never saw him before?

24 A I never saw him no, until trial, no.

25 Q So how is it that you say that it's Allie Boy?

Floridia - Cross/Kedia

2359

1 A How is it that I say that?

2 Q Yes.

3 A I just know. I know.

4 Q You saw a picture in the newspaper?

5 A Could be, yeah, I knew his name, I knew who the boss  
6 was. I just didn't know -- I mean, when I seen the name  
7 to the face, now I know him.

8 Q Mr. Floridia, you said you were involved with the  
9 Colombo family from the mid 1990s, certainly up until your  
10 arrest in February of 2003, right?

11 A Yes.

12 Q For eight or nine years, right?

13 A Yes.

14 Q You never met, spoke or saw Mr. Persico, right?

15 A Never.

16 Q Now, Joseph Campanella is someone you did know,  
17 right?

18 A Yes.

19 Q He is the person that you participated in shooting on  
20 July 16, 2001, right?

21 A Yes.

22 Q And Joseph Campanella, you testified, was a made  
23 member of the Colombo family, right?

24 A Yes.

25 Q When did you meet Joseph Campanella?

Floridia - Cross/Kedia

2360

1 A It was probably 1997 at the club.

2 Q At the club?

3 A Yes.

4 Q Meaning at Billy's club?

5 A Yes.

6 Q This is a place that you say you went every Wednesday  
7 night?

8 A Yes.

9 Q For a period certainly before Mr. Cutolo -- before  
10 Billy Cutolo disappeared for a period of two years?

11 A Correct.

12 Q So approximately over two years you would say it was  
13 100 times that you went to that club, right?

14 A Could be. Could be less. I don't know. I didn't  
15 count.

16 Q Well, over 50 times, somewhere between 50 and 100  
17 times, is that fair?

18 A Probably.

19 Q Now, Joseph Campanella was someone who you knew also  
20 went to Billy Cutolo's club every Wednesday night, right?

21 A Yes.

22 Q And Joseph Campanella, being a made member, he is  
23 certainly someone who was in a position to know the ranks  
24 of the other members of the Colombo family, right?

25 A I can't talk for Joe, what he knew. I don't know.

Floridia - Cross/Kedia

1 Q Well, Mr. Floridia, you said it was important to know  
2 people's ranks in the family, right?

3 A Yes. You learned that. Yes. I learned on my own.  
4 I learned through people telling me, yes.

5 Q Certainly you understand that a made member would  
6 know people's ranks in the family, right?

7 A Yeah. I would assume so.

8 Q And you know that Campanella was, in fact, a made  
9 member, right?

10 A Yes.

11 Q And you were not, right?

12 A No, I was an associate.

13 Q Now, Joseph Campanella told you that he never knew  
14 Jackie DeRoss to become the underboss of the family, would  
15 you think he was right?

16 MS. MAYER: Objection.

17 THE COURT: Sustained.

18 Q Well, Mr. Floridia, did Joseph Campanella ever tell  
19 you about people's positions in the family?

20 A Joe Campy?

21 Q Yes, Joe Campy.

22 A I wasn't that friendly with Joe.

23 Q You saw him nearly 100 times over the course of two  
24 years?

25 MS. MAYER: Objection. That misstates the

2361

Floridia - Cross/Kedia

2362

1 evidence.

2 THE COURT: Sustained.

3 Q 50 to 100 times over the course of two years?

4 MS. MAYER: Objection. There is no testimony on  
5 that he said he was at the club.

6 THE COURT: Sustained.

7 Q On these occasions you went to the club, Mr.

8 Floridia, one of the people you saw on a regular basis  
9 according to you was Joseph Campanella, right?

10 A Yes, he was in there a lot.

11 Q If Joseph Campanella said he never saw you at the  
12 club before Billy Cutolo disappeared --

13 MS. MAYER: Objection.

14 Q -- would he be telling a lie?

15 THE COURT: Sustained. The jury is instructed  
16 to disregard the question.

17 Q Mr. Floridia, you started committing crimes long  
18 before you were ever associated with the Colombo family,  
19 right?

20 A Yes. Long before? No. No.

21 Q How much before?

22 A Probably at the same time that I met Tommy Cappa,  
23 because that's how he knew that I was putting money out.

24 Q You say that Tommy Cappa knew that you were putting  
25 money out?

Floridia - Cross/Kedia

2363

1 A Yes.

2 Q Meaning that you were loan-sharking, is that what  
3 that means?

4 A Yeah, I was lending money to a couple of kids in the  
5 neighborhood.

6 Q Who were you lending money to?

7 A I don't remember.

8 Q You were lending money to people before you even knew  
9 Tommy Cappa?

10 A Correct.

11 Q So you weren't committing crimes before you even met  
12 someone who you believed to be associated with the Colombo  
13 family, is that right?

14 A Yes.

15 Q Including a crime like loan-sharking, right?

16 A Correct.

17 Q You were also committing bank fraud, right?

18 A Bank fraud?

19 Q Bank fraud.

20 A Yeah.

21 Q What was that?

22 A Yes.

23 Q Did you forget about the bank fraud?

24 MS. MAYER: Objection.

25 THE COURT: Sustained.

Floridia - Cross/Kedia

2364

1 A No.

2 Q Mr. Floridia, how long ago was this bank fraud that  
3 you committed?

4 A I probably -- I was probably like 19, 20 years old.

5 Q What was the bank fraud?

6 A I had a guy that used to do mortgages, and what he  
7 would do, he had the whole setup, he had the appraiser and  
8 the lawyers that were involved in the whole thing, and  
9 what they would do, they would inflate the price of the  
10 house, so let's just say the house was worth 200,000, and  
11 when you went and put in -- an appraiser would go to this  
12 house and he would appraise the house for 300,000, to so  
13 now the bank would think that the house is worth 300,000,  
14 not 200,000, so now you can take more money out than the  
15 house is valued at, so basically you are defrauding the  
16 bank.

17 Q And the purpose is to get additional money from the  
18 bank that you are not entitled to, is that right?

19 A Yes.

20 Q Who concocted this scheme?

21 A Well, I had met this guy Nick, I don't remember how,  
22 and we actually tried it out and I bought a couple of  
23 buildings doing it.

24 Q Who is Nick?

25 A He is the mortgage guy, Nick Nomet (ph).

Floridia - Cross/Kedia

2365

1 Q Was he the person who concocted the scheme or were  
2 you the person who concocted the scheme?

3 A No, it was him. He was actually a mortgage broker.

4 Q What did he get out of the deal?

5 A Well, he charged, I think -- yeah, he charged a  
6 percentage on -- he made a percentage on the deal so, you  
7 know, for him to put the deal together, he made money off  
8 it.

9 Q Meaning he got a percentage, like if he got a  
10 mortgage from the bank, is that right?

11 A Yes.

12 Q Whether it was fraudulent or whether it was a real  
13 mortgage, right?

14 A Correct.

15 Q So what did he get out of lying to the bank of  
16 concocting a scheme on your behalf?

17 A He made more money.

18 Q Did he do this for other people, too, Mr. Floridia?

19 A I would assume so, I can't tell. I don't know.

20 Q How did you meet Nick?

21 A Someone had told me about Nick.

22 Q Who is someone?

23 A I don't really remember.

24 Q What did someone tell you about Nick?

25 A That there was a guy who can get you a mortgage

Florida - Cross/Kedia

2366

1 without you using your credit file, or you know, you just  
2 need a good credit and he can inflate mortgage and you can  
3 take more money out.

4 Q So meaning someone told you that Nick was involved in  
5 these types of schemes?

6 A Correct.

7 Q And this was someone who had actually committed these  
8 types of schemes with Nick?

9 A I'm not sure. Probably. He knew about it, so I  
10 would assume so. I don't know.

11 Q Well, you say he knew about it, who is he?

12 A I don't remember. I don't remember his name.

13 Q What year is this that you are talking about, Mr.  
14 Florida?

15 A Like I said, I was like 19 or 20 years old when I  
16 bought those buildings.

17 Q How old are you now?

18 | A T 'm 32.

19 Q So you are talking about like 1995?

20 A Yeah. Yes.

21 Q Around the same period of time --

22 A '94-'95 yes

23 Q So shortly before you met people you believed to be  
24 associated with the Colombo family, is that right?

25 A Yes

Floridia - Cross/Kedia

2367

1 Q Where was it that you were meeting people that you  
2 were committing this bank fraud with?

3 A What do you mean?

4 Q Where, were you working in a barber shop at that  
5 time?

6 A I had the barber shop, yes.

7 Q Is that where you met Nick?

8 A No, he had an office in -- I think it was Merrick,  
9 Long Island. He was a legitimate mortgage guy, from what  
10 it looked like on the outside. I mean, he had a big  
11 office, he had secretaries, it was a legitimate place.

12 Q Meaning he is a legitimate mortgage guy that did  
13 illegitimate deals for you?

14 A Yes.

15 Q What other types of crimes were you committing during  
16 this period of time, apart from anything you were doing  
17 with the Colombo family, so to speak?

18 A I think that's it, from what I can remember.

19 Q Do you recall engaging in credit card fraud?

20 A That was after. That was way after.

21 Q It certainly didn't have anything to do with anyone  
22 in the Colombo family, right?

23 A They knew about it. They were making money off of  
24 it, yes.

25 Q Who is they?

Floridia - Cross/Kedia

2368

1 A Chickie.

2 Q Chickie?

3 A Yes.

4 Q This is something that you started doing long before  
5 you ever met Chickie DeMartino, isn't it?

6 A No.

7 Q Well, Mr. Floridia, you started committing credit  
8 card fraud back in 1996, right?

9 A I don't believe it was in '96, no.

10 Q Mr. Floridia, I'm going to refer your attention to --

11 MS. KEDIA: Your Honor, I believe it's GF 18,  
12 starting the bottom of page 533, line 25.

13 Q Mr. Floridia, you certainly recall testifying under  
14 oath at prior proceedings, right?

15 A Yes, I remember testifying on other proceedings.

16 Q Do you recall being asked this question and giving  
17 this answer:

18 Question: Also, you say with respect to credit  
19 card fraud that you were involved in credit card fraud  
20 from 1996 through 2003?

21 Answer: Correct.

22 Question: Tell me about the credit card fraud.

23 Answer: The credit card fraud is I was  
24 involved, I had met this hacker kid.

25 Do you recall being asked those questions and

Floridia - Cross/Kedia

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1 giving those answers?

2 A Yes.

3 Q And at the time that you were asked those questions  
4 and you gave those answers, you were under oath, right?

5 A Correct.

6 Q Swearing to tell the truth, just like you swore in  
7 here, right?

8 A Yes.

9 Q When you said it was 1996 then, were you telling the  
10 truth?

11 A Well, see, you are specifically saying a year, and my  
12 cooperation agreement covers me from 1996 all the way to  
13 2003. It doesn't say specifically that I committed the  
14 credit card fraud in 2006. That's a different question.

15 Q Mr. Floridia, did you understand the questions and  
16 answers that I just read back to you that you gave in a  
17 courtroom before a different jury at a prior proceeding?

18 A Can you repeat that?

19 Q Did you understand the questions and answers, did you  
20 hear the questions and answers that I just read to you  
21 that you gave, that you said you recalled giving?

22 MS. MAYER: Objection. Judge, this is  
23 argumentative.

24 THE COURT: It is. Move on.

25 Q Mr. Floridia, did you, in fact, give the questions

Floridia - Cross/Kedia

1 and answers that I read to you just a few moments ago at a  
2 prior proceeding?

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3 A Yes.

4 Q When you were asked those questions and answers --  
5 those questions and answers had nothing to do with a  
6 cooperation agreement, did they? I can read them back.

7 MS. MAYER: Objection.

8 THE COURT: Don't cut each other off. Ask a  
9 question and let him respond to it.

10 Q Mr. Floridia, those questions and answers had nothing  
11 to do with a cooperation agreement, right?

12 A You are referring to my cooperation agreement.

13 Q Mr. Floridia, I'm going to read your answer.

14 MS. MAYER: Objection.

15 THE COURT: It's not necessary. Move on.

16 Q Mr. Floridia, I read you some questions and answers  
17 that had nothing to do with a cooperation agreement. Do  
18 you understand that?

19 A But that's where I only know them from. I mean,  
20 that's what you asked me.

21 Q Mr. Floridia, do you recall actually testifying and  
22 being asked questions on cross-examination by other  
23 lawyers, do you recall that?

24 MS. MAYER: Objection.

25 THE COURT: Sustained.

Floridia - Cross/Kedia

1 MS. MAYER: Can we have some specificity here? 2371

2 THE COURT: Come on up.

3 (Continued on the next page.)

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Sidebar

2372

1 (Sidebar.)

2 THE COURT: Did you give me Mr. Floridia's 3500  
3 material?

4 MS. MAYER: Yesterday, I put it down on the low  
5 bench. There were two books.

6 THE COURT: All right.

7 MS. KEDIA: Here are the questions and answers I  
8 read him.

9 THE COURT: I know what you read him. We all  
10 know what you read him. What he is talking about is his  
11 cooperation agreement. He is focused on the cooperation  
12 agreement. As we all know, cooperation agreements are  
13 hammered out to give a defendant the widest possible  
14 consideration and coverage.

15 MS. KEDIA: The questions and answers have  
16 nothing to do with the cooperation agreement. That's the  
17 point I'm making.

18 THE COURT: You made that point. Move on.

19 MS. KEDIA: I haven't made that point. He said:  
20 I'm talking about my cooperation agreement.

21 THE COURT: Do you want to stipulate that this  
22 portion of the testimony didn't relate to a cooperation  
23 agreement?

24 MS. KEDIA: Starts on line 25.

25 MR. BURETTA: I think we want to look at the

Sidebar

2373

1        pages before.

2                I don't know if it's a section that is talking  
3        about the coverage. On cross, they go through each thing  
4        without us having a few moments to look at it.

5                MS. KEDIA: The question at the bottom of page  
6        533 says also: You say with respect to credit card fraud  
7        that you were involved in credit card fraud from 1996  
8        through 2003.

9                Answer: Correct.

10              MR. BURETTA: We are three minutes away from  
11        lunch.

12              THE COURT: Let's them go and we will resume at  
13        2:00 with this group.

14              (Sidebar concluded.)

15              (Continued on the next page.)

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2374

1 (In open court.)

2 THE COURT: Ladies and gentlemen, we are going  
3 to break for lunch. Be back at 2:00. Have a nice lunch.

4 (The jury leaves the courtroom.)

5 THE COURT: You can step down.

6 Let's resolve this issue with regard to the  
7 testimony.

8 MR. BURETTA: Judge, starting page 531 of the  
9 transcript, it is, in fact, going through the coverage  
10 paragraph in his cooperation agreement. So it continues  
11 up through that series. So he is correctly describing  
12 what the testimony is talking about.

13 MS. KEDIA: The question and answer he was asked  
14 was did he commit these crimes during this time period  
15 from 1996 to 2003. He says correct.

16 If the government doesn't want to stipulate,  
17 that's not a problem. I offered this portion of the  
18 testimony I read into --

19 THE COURT: You have it before the jury, but it  
20 also starts out with at the very top of the page of 531:  
21 Sure, look on page 4.

22 Answer: Okay.

23 Then it goes on to go through the various crimes  
24 that are covered referring to the cooperation agreement.  
25 So your objection is sustained.

2375

1 See you folks at 2:00.

2 (A luncheon recess was taken.)

3 (Continued on the next page.)

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Floridia - Cross/Ms. Kedia

2376

1                   AFTERNOON SESSION  
2

3                   (The following took place at 2:07 p.m.)  
4

5                   THE COURT: You're still under oath,  
6                   Mr. Floridia.

7                   You may inquire.

8                   MS. KEDIA: Thank you.

9                   CROSS-EXAMINATION (Continued)

10                  BY MS. KEDIA:

11                  Q. Mr. Floridia, when we broke for lunch we were talking  
12                  about this credit card fraud that you were involved in.

13                  Do you recall that?

14                  A. Yes.

15                  Q. What was the credit card fraud?

16                  A. Well, we would use credit cards that wasn't ours.

17                  Q. Explain what that means.

18                  Where did you get credit cards that weren't  
19                  yours?

20                  A. Well, I had met this kid. I forgot his name, but he  
21                  was a hacker and he would reprogram credit cards,  
22                  reprogram credit card numbers into a credit card. So when  
23                  you go to the store and you give them the credit card, and  
24                  it would be somebody else's account.

25                  Q. Meaning he would take, let's say, her credit card and  
                      reprogram it so that it had your name on it.

Floridia - Cross/Ms. Kedia

2377

1           That is what you're saying?

2   A.   No, he would take my credit card, for example, and  
3       put your information on it.

4   Q.   So that it appeared to be your credit card but it was  
5       really being debited to my account?

6   A.   Correct.

7   Q.   And so somebody else would get a credit card bill for  
8       things that you had purchased?

9   A.   Correct.

10   Q.   And you said this kid was a hacker?

11   A.   Yes.

12   Q.   What does that mean?

13   A.   Well, he knew the Internet. I mean, he could get in  
14       and out of sites and steal information over the Web.

15   Q.   Where did you meet this kid?

16   A.   I think it was in one of my barbershops.

17   Q.   When?

18   A.   After '99.

19   Q.   After 1999?

20   A.   Yes.

21   Q.   So you -- let me show you what is in evidence as  
22       3500 GF-1.

23           Mr. Floridia do you recognize this to be your  
24       cooperation agreement?

25   A.   Yes.

Floridia - Cross/Ms. Kedia

2378

1 Q. Now, I'm going to turn to page 5 of the agreement.

2 Can you read this or do you need it to be zoomed  
3 in?

4 A. Yes.

5 Q. Can you read this?

6 A. Uh-huh.

7 Q. It says, *This cooperation agreement gives you*  
8 *coverage for credit card fraud from 1996 through 2003.*

9 Right? Do you see that?

10 A. Yes.

11 Q. Did you tell the government that you were involved in  
12 credit card fraud from 1996 through 2003?

13 A. Yes.

14 Q. So before you were involved with the hacker kid, who  
15 were you committing credit card fraud with?

16 A. You see, that is a cooperation agreement just giving  
17 me coverage. It doesn't mean that I committed the crimes  
18 in 1996.

19 I mean, I'm covered through 1996; I didn't  
20 commit them in 2003. So you know, I'm just -- I have that  
21 coverage, because I came clean for it. So you know that's  
22 the year. I can't tell them exactly what year.

23 Q. Mr. Floridia, I just asked you; did you tell the  
24 government that you were involved in credit card fraud  
25 from 1996 to 2003. And you said, Yes. Is that wrong?

Floridia - Cross/Ms. Kedia

2379

1 A. No.

2 Q. So who were you involved in credit card fraud with  
3 between 1996 and 1999?

4 A. I was involved with the hacker kid.

5 Q. So this -- you started the credit card fraud with the  
6 hacker kid then in 1996?

7 A. No, I didn't say that, no.

8 Q. When did you start with the hacker kid?

9 A. I told you it happened after '99.

10 Q. Who else was involved besides the hacker kid?

11 A. Vincent DeMartino.

12 Q. How was he involved?

13 A. Because whatever we needed to steal for his house,  
14 through construction sites and things like that, we bought  
15 on credit cards.

16 Q. Do you recall testifying in a prior proceeding and  
17 never having mentioned Vincent DeMartino's name in  
18 connection with credit card fraud?

19 MS. MAYER: Objection.

20 THE COURT: Sustained.

21 BY MS. KEDIA:

22 Q. Did you ever tell anyone prior to sitting here today  
23 that Vincent DeMartino was involved in credit card fraud  
24 with you?

25 A. Yes.

Floridia - Cross/Ms. Kedia

2380

1 Q. Who did you tell?

2 A. I told the FBI.

3 Q. When?

4 A. When I was proffering.

5 Q. You told them that Mr. DeMartino was involved with  
6 you?

7 A. Yes.

8 Q. And you also told them that you were involved between  
9 1996 and 2003. Right?

10 A. Well, that is what I told them; that is what they put  
11 in my cooperation agreement. I don't know why they put it  
12 in there. I guess it's legal. I'm just telling you when  
13 I committed the crimes.

14 Q. Well, Mr. Floridia, when you started proffering with  
15 the government, let -- explain what your understanding of  
16 proffering is.

17 A. You want me to explain?

18 Q. What is your understanding of proffering?

19 A. Well, you meet with the FBI, and you basically tell  
20 them all of the crimes you committed. And they take what  
21 you say and they put it in a 302.

22 Q. What is a 302?

23 A. A 302 is all the information that you told them, the  
24 FBI, and they write it down in notes in their own -- in, I  
25 guess, saying. That is how I understand it.

Floridia - Cross/Ms. Kedia

2381

1           So I proffered. I told them about all of the  
2 crimes I committed. They are in my 302s, maybe I was just  
3 never asked in another trial or another proceeding.

4 Q. Now, your belief is that your credit card fraud scam  
5 is in your 302s as well. Is that right?

6 A. I believe so, because I remember telling the FBI  
7 that.

8 Q. Did you review your 302s with the FBI?

9 A. No.

10 Q. Did you ever review your 302s?

11 A. No, they don't show the 302s to you.

12 Q. To this day have you ever seen them?

13 A. Well, another proceedings -- in other proceedings  
14 they told -- showed me some 302s, but not all of them.

15 Q. Who showed you some 302s?

16 A. I think it was you.

17 Q. You think it was me?

18 A. The defense team.

19 Q. Mr. Floridia, you and I have never met prior to  
20 today. Right?

21 A. There was another proceeding.

22           MS. MAYER: Objection.

23           THE COURT: Sustained.

24 BY MS. KEDIA:

25 Q. Mr. Floridia, apart from you thinking it was me, who

Floridia - Cross/Ms. Kedia

2382

1 else showed you 302s?

2 A. That's it. It was just shown to me while I was on  
3 the stand.

4 Q. Who else besides Vincent DeMartino and the hacker kid  
5 was involved in credit card fraud with you?

6 A. There was a few other kids from the neighborhood.

7 Q. Who -- what kids?

8 A. This kid Rob and this kid Nory, all of them; I told  
9 the FBI.

10 Q. You told the FBI about a person named Rob and a  
11 person named Nory?

12 A. Yes.

13 Q. And what did you tell the FBI about these two people?

14 A. That they were involved in credit card fraud with me.

15 Q. How much money was made as a result of this credit  
16 card fraud scheme?

17 A. There was a lot of money made.

18 Q. What is a lot of money?

19 A. I don't have a number, but there was a lot of money  
20 made.

21 Q. Can you give us any approximation?

22 A. No, I can't. There was a lot of money made. I don't  
23 know how to describe -- I don't have a number. I didn't  
24 keep records of it. You know, I don't know. I can't give  
25 you a number. I can't guess, you know.

Floridia - Cross/Ms. Kedia

2383

1 Q. Let me ask you this.

2 A. I would be guessing if I gave you a number.

3 Q. Let me ask you this.

4 You had these credit cards that this hacker kid  
5 made. And it had your name on it. Right?

6 A. No, it would have other people's names -- other  
7 credit cards.

8 Q. I thought that you said earlier that it was purported  
9 to be yours. It had your name on it and somebody else's  
10 accounts. Is that right?

11 MS. MAYER: Objection.

12 THE COURT: Sustained.

13 BY MS. KEDIA:

14 Q. Mr. Floridia, explain again how this credit card  
15 fraud scheme worked.

16 MS. MAYER: Objection, asked and answered,  
17 Judge.

18 THE COURT: Tell us how the credit card fraud  
19 worked, briefly, again.

20 THE WITNESS: Well, the credit card -- I used  
21 myself as an example. It was my credit card. And I said,  
22 I will take your -- they would take your information and  
23 put it on my credit card. And I would use it. And you  
24 would get billed from me using the card.

25 THE COURT: And it wouldn't necessarily have

Floridia - Cross/Ms. Kedia

2384

1 your name on it?

2 THE WITNESS: Exactly, yes.

3 BY MS. KEDIA:

4 Q. And similarly, other people had credit cards like  
5 Nory and Rob that they would use?

6 A. Well, it wasn't -- it wasn't their credit cards.

7 They had credit cards, though, under other people's names,  
8 yes.

9 Q. So there were several of these credit cards. You had  
10 some, they had some?

11 A. Oh, there was a lot of credit cards. There wasn't  
12 several; there was more than several.

13 Q. Like hundreds?

14 A. I wouldn't say hundreds, but I would say below 100  
15 and over 50.

16 Q. And what about Vincent DeMartino, he had some of  
17 these credit cards, too?

18 A. No, because I would do whatever he -- whatever  
19 Vincent wanted, he would tell me. I would order it. And  
20 then he gave -- I would give the address.

21 He gave me an address for the stuff to go,  
22 because it would be through mail or, you know, over the  
23 phone. And he would get the delivery of the merchandise.

24 Q. Meaning you would purchase with someone else's credit  
25 card information, stuff for Mr. DeMartino. Is that what

Floridia - Cross/Ms. Kedia

2385

1 you're saying?

2 A. Correct.

3 Q. And you purchased things also for yourself?

4 A. Yes.

5 Q. What kind of things?

6 A. Clothes, gas, whatever. Whatever was paid for with  
7 my credit card, I could purchase.

8 Q. And how is it that this person Rob and this person  
9 Nory came to be involved in this scheme with you?

10 A. Well, they would do it with the kid, with the other  
11 kids, with -- the hacker kid's name was Sam. That is what  
12 his name was, Sam. And he knew them.

13 And they would go out to stores for Sam and  
14 purchase, like, Macy's and they would go into stores and  
15 buy clothes with -- had these credit cards, and leave  
16 with, you know, the merchandise.

17 Q. And they kept their -- what they bought?

18 A. They would get a portion or whatever they wanted to  
19 buy. But the kid, Sam, would direct them on what he  
20 wanted. And then they could buy whatever they wanted.

21 You know.

22 Q. And this continued on for years and years?

23 A. I don't know about years and years. I mean, he might  
24 still be doing it. I don't know. But I know I was  
25 involved in it for awhile.

Floridia - Cross/Ms. Kedia

2386

1 Q. When you say he might still be doing it, you're  
2 talking about Sam?

3 A. He might still be doing it. I don't know.

4 Q. Did you just say they?

5 A. Yes, Sam and the kids. I'm not sure.

6 Q. Sam and Rob and Nory?

7 A. Yes.

8 Q. And you're talking about Sam Elders, Sammie Elders?

9 A. Sam Elders.

10 Q. You're talking about Rob DeLosso?

11 A. Yes.

12 Q. And do you know Nory Markey? Do those names sound  
13 familiar to you?

14 A. I believe so, if that is their last names, yes.

15 Q. And so your testimony is you told the government  
16 about these three people?

17 MS. MAYER: Objection, asked and answered.

18 THE COURT: Sustained.

19 BY MS. KEDIA:

20 Q. Did you tell the government also about Sammie Elders?

21 A. Yes. I don't know if I told them their last names,  
22 because I didn't know their last names. But I told them  
23 their first names, yes.

24 Q. And do you know if these people were ever arrested as  
25 a result of what you told the government?

Floridia - Cross/Ms. Kedia

2387

1 MS. MAYER: Objection.

2 THE COURT: Sustained.

3 BY MS. KEDIA:

4 Q. Well, Mr. Floridia, your testimony is that they might  
5 still be doing it today for all you know. Is that right?

6 A. I'm guessing, though.

7 Q. When is the last time you spoke to Sammie Elders?

8 A. Oh, I don't remember. I have been in prison.

9 Q. Well, you have been in prison since May of 2004 when  
10 you were convicted of participating in a conspiracy to  
11 murder Joseph Campanella. Right?

12 A. Yes.

13 Q. Well, prior to May of 2004, when is the last time you  
14 spoke to Sammie Elders?

15 A. I can't -- I would be guessing. Sorry, I don't know.

16 Q. You have no approximation; not a year even?

17 A. Well, I could probably give you a year. It was  
18 probably about 2001, 2002, if I had to say. Yes, around  
19 that time.

20 Q. When did you meet Sammie Elders?

21 A. Gee, I really can't remember; probably around the  
22 same years because it was just a brief -- I mean, it is  
23 not like me and him were friends.

24 Q. Well, didn't you say you were committing credit card  
25 fraud with him since the 1990's?

Floridia - Cross/Ms. Kedia

2388

1 A. I had coverage for it. I don't know. But you know,  
2 I told you -- again, part of my cooperation agreement  
3 covers me from 1996 to 2003.

4 Q. Mr. Floridia, Sammie Elders is someone you became  
5 very close to. Right?

6 A. Very close? I mean, I had a friendship -- a brief  
7 friendship with him while I was committing this credit  
8 card fraud with him, this scheme.

9 Q. Well, you became close enough to him that you  
10 actually got a cell phone in his name. Right?

11 A. Yes, he got me a cell phone, yes.

12 Q. And when was that?

13 A. Probably the same year, 2001, 2002.

14 Q. Mr. Floridia, when did you meet Rob DeLosso?

15 A. Same years, 2001, 2002.

16 Q. Did you know Rob DeLosso? Did you know the last name  
17 DeLosso, before I gave it to you?

18 A. No, I said that before. I didn't know their last  
19 names.

20 Q. Same thing with Nory, didn't know his last name?

21 A. No.

22 Q. How did you meet Rob?

23 A. I opened up a barbershop in Staten Island. And  
24 that's how I got to know all three of these guys, through  
25 my barbershop.

Floridia - Cross/Ms. Kedia

2389

1 Q. Meaning they were customers in your barbershop?

2 A. Well, they lived -- yeah, they lived in the  
3 neighborhood, and they would come into the barbershop.

4 Q. So get their haircut?

5 A. Correct. Well, actually -- actually, I'm sorry.  
6 Nory wound up working for me because he used to cut hair.

7 Q. Nory was a barber?

8 A. Correct.

9 Q. And what barbershop is this?

10 A. There was a barbershop that I opened in -- I don't  
11 remember what year. It was my barbershop.

12 Q. Well, where was the barbershop?

13 A. In Staten Island.

14 Q. You had another barbershop. Right?

15 A. Correct.

16 Q. In Brooklyn?

17 A. And I had another one on Kings Highway in Brooklyn.

18 Q. But you're talking about having met these people at a  
19 barbershop in Staten Island?

20 A. Yeah.

21 Q. And approximately what year was that?

22 A. 2001, 2002.

23 Q. For Rob and Nory as well?

24 A. I believe so.

25 Q. Well, Mr. Floridia --

Floridia - Cross/Ms. Kedia

2390

1 A. Yeah, it could have been around then. I'm not really  
2 sure of dates, but yeah, it could have been around then.

3 Q. So when you met them and became close to Vincent  
4 DeMartino in the late 1990s, you didn't know these people.  
5 Is that your testimony?

6 A. In the nineties? Could you repeat that?

7 Q. When did you meet Vincent DeMartino and start hanging  
8 out with him every day, about?

9 A. Well, I met him in '97, so I mean --

10 Q. When in '97 did you meet Vincent DeMartino?

11 A. I think it was summertime -- around summertime --  
12 spring or summer.

13 Q. In 1997?

14 A. Correct.

15 Q. And when did you meet these people in relation to  
16 Vincent DeMartino?

17 A. After I met Chickie.

18 Q. Okay. When in relation to when you met  
19 Mr. DeMartino?

20 MS. MAYER: Objection, asked and answered.

21 THE COURT: Could you approximate how much  
22 longer it was?

23 THE WITNESS: Well, I said I met these people  
24 probably in the year of 2000, 2001, 2002. But you know,  
25 I'm not 100 percent sure.

Floridia - Cross/Ms. Kedia

2391

1 BY MS. KEDIA:

2 Q. When you met Mr. DeMartino in mid-1997, where was he  
3 living?

4 A. Staten Island.

5 Q. Are you aware that Mr. DeMartino actually got out of  
6 jail and was living in a halfway house in mid-1997?

7 A. I don't know.

8 Q. You didn't know that part?

9 A. No.

10 MS. MAYER: Objection.

11 THE COURT: Sustained.

12 BY MS. KEDIA:

13 Q. Mr. Floridia, these people, Sammie Elders and Rob and  
14 Nory, are certainly not people you met through  
15 Mr. DeMartino. Right?

16 A. No.

17 Q. You met them on your own. Right?

18 A. Correct.

19 Q. And they had absolutely nothing to do with the  
20 Colombo family. Right?

21 A. No.

22 Q. And you were committing crimes with them on your own.  
23 Right?

24 A. Well, me committing -- I'm an earner, so I mean,  
25 whatever crimes I committed, Chickie got in -- he knew

Floridia - Cross/Ms. Kedia

2392

1 about it. So that is just what you do when you're  
2 involved in the crew.

3 You make money, you kick up money. And he kicks  
4 up money. And that's what you do. That is what it is.  
5 That is what it is all about. Scheming, making money.  
6 That's it, period.

7 Q. When you were making money and you were kicking it up  
8 to Vincent DeMartino in 2000, 2001, was he taking that off  
9 of the money that you owed him -- that you said you owed  
10 him?

11 A. No, that was separate money. That was his take.  
12 They take takes. You know, that's the money that I told  
13 him I made, 10,000, and I would give him \$1500, you know  
14 what I mean.

15 I would say, *Listen, Vince, I made some money.*  
16 *Here you go. Here is your kick.* And then he would put  
17 some together and give it to Jackie. And so on and so  
18 forth. Everybody kicks up.

19 Q. Mr. Floridia, let me ask you this.

20 You just described about everybody kicking up.  
21 And you're describing something that you believe is  
22 something someone does when they are associated with a  
23 crime family. Right. Is that right?

24 A. Well, Vincent told me -- that is how it works. I  
25 mean --

Floridia - Cross/Ms. Kedia

2393

1 Q. Vincent is someone you believe you met in mid-1997.

2 Right?

3 A. Correct.

4 Q. And before you met Vincent, you considered yourself  
5 an associate. Right?

6 A. Before I met Vincent?

7 Q. Yes.

8 A. Well, yeah, I was with Billy.

9 Q. You said you were with Billy before you met Vincent?

10 A. I still -- I was still an associate until the day I  
11 came to jail.

12 Q. So when did you become an associate?

13 A. 1996.

14 Q. How did you become an associate?

15 A. When I started -- when I went on record with Tommy  
16 Cappa, putting loanshark money out.

17 Q. And when you say you went on record with Tommy Cappa.  
18 How did you understand that to come about?

19 A. That I was with Tommy? He was lending money out. He  
20 was giving me the money, and I was lending it out. And he  
21 was with -- I would be guessing -- I thought he was with  
22 Joey Amato. But Joey Amato was in prison. So I assume  
23 that he was directly with Billy, too. So --

24 Q. Did you know -- you just named somebody, Joey Amato?

25 Did you know who Joey Amato was?

Floridia - Cross/Ms. Kedia

2394

1 A. I never met him, but I know him.

2 Q. You never met him but you know him?

3 A. Correct.

4 Q. What does that mean, Mr. Floridia?

5 A. Well, Joey is in prison. He has been in prison  
6 since -- he has been in prison, I don't know how long, but  
7 he has been in prison.

8 Q. Do you often say you know people you haven't met?

9 MS. MAYER: Objection.

10 THE COURT: Sustained.

11 BY MS. KEDIA:

12 Q. When is it that you met Tommy Cappa?

13 A. 1996.

14 Q. 1996. When did you open your barbershop?

15 A. I think it was in 1995.

16 Q. And soon thereafter Tommy Cappa you met?

17 A. Yes.

18 Q. Now, do you recall testifying in a prior proceeding  
19 that, in fact, you met Tommy Cappa in 1995?

20 A. I'm not sure.

21 Q. Let me direct your attention to 3500 GF-18, page 435.

22 Start at line 10.

23 "Question: Focusing on the beginning of your  
24 relationship with the Colombo family, how did you first  
25 become involved with the Colombo family?"

Floridia - Cross/Ms. Kedia

2395

1                   "Answer: Well, I had a barbershop on Kings  
2 Highway in Brooklyn. I used to cut hair there. I had met  
3 Tommy Cappa. He had come in for a haircut. After a few  
4 times of coming in and talking, he had asked me if I  
5 wanted to put a Joker Poker machine in my barbershop.

6                   "Question: Approximately what year was that?

7                   "Answer: That was 1995."

8                   Do you recall being asked those questions and  
9 giving those answers at a prior proceeding?

10                  A. Could have, yes.

11                  Q. So was it 1995 or was it 1996?

12                  MS. MAYER: I'm going to object.

13                  THE COURT: Sustained.

14                  BY MS. KEDIA:

15                  Q. Well, Mr. Floridia, did you learn at the time that  
16 you gave that testimony that, in fact, Mr. Cappa was in  
17 jail since -- until 1996?

18                  MS. MAYER: Objection.

19                  THE COURT: Sustained.

20                  BY MS. KEDIA:

21                  Q. Do you know, sitting there now, that Mr. Cappa was in  
22 jail until 1996?

23                  A. No.

24                  Q. When you met Mr. Cappa, did you know him to be  
25 someone who had just recently come out of jail?

Floridia - Cross/Ms. Kedia

2396

1 A. No, I didn't. I didn't know him at all.

2 Q. You didn't know him at all but yet you became his  
3 associate?

4 MS. MAYER: Objection.

5 THE COURT: Sustained.

6 BY MS. KEDIA:

7 Q. Well, when you just said you didn't know him at all,  
8 obviously at some point you did; you got to know him.

9 Right?

10 A. Well, like I said in another proceeding, he would  
11 come in for haircuts. We got friendly. He seen that  
12 there wasn't -- that that is what they did. They scope  
13 out the places that don't have these Joker Poker machines.

14 And when they see, they get friendly with you,  
15 they say, *Listen, do you mind putting the machine in here*  
16 *you know whatever money we make, we'll split it 50/50.*

17 But they did that with everybody. If you didn't  
18 have a machine in your store, they would find out and then  
19 they would approach you. That's the type of business he  
20 was in.

21 Q. Did you tell Tommy Cappa that you had been  
22 loansharking money already?

23 A. No.

24 Q. He didn't know anything about these customers of  
25 yours?

Floridia - Cross/Ms. Kedia

2397

1 MS. MAYER: Objection.

2 THE COURT: Sustained.

3 BY MS. KEDIA:

4 Q. How much money were you loansharking before you met  
5 Tommy Cappa?

6 A. It was very small, like 500. I was just lending it  
7 out to people.

8 Q. \$500?

9 A. Yeah, 500, very small, \$500, \$1,000.

10 Q. And you described loansharking as something where you  
11 get points. Is that right?

12 A. Yes.

13 Q. Points meaning interest back on the money that you  
14 lent out. Right?

15 A. Yes.

16 Q. What kind of interest rates were you lending this  
17 money out at?

18 A. I don't remember. It was probably 2 to 3 percent  
19 interest.

20 Q. And were you getting paid?

21 A. Yes.

22 Q. I'm talking about a time before you met Tommy Cappa.

23 A. Okay.

24 Q. Did you have to use violence to get paid?

25 A. No, because it was so small. I was lending -- I was

Floridia - Cross/Ms. Kedia

2398

1       lending money out to friends anyway because I had -- I had  
2       the money, thank God, back then.

3                   So I was doing it to help people out. But what  
4       happened is, one person asks you, another person. All of  
5       a sudden, you got, you know, ten people knocking at your  
6       door, you know.

7       Q. Meaning wanting to borrow money?

8       A. Correct.

9       Q. And so your business grew?

10      A. Well, I started out doing it as favors. And then  
11     I -- and then I realized -- well, too many people coming  
12     now. So then I started charging them interest.

13      Q. So how many people are we talking about?

14      A. Probably like four or five people. Because most of  
15     the people when I told them that I would have to charge  
16     them interest, now they didn't want the money anymore.

17      Q. And when you became an associate, what happened? Did  
18     somebody tell you, now you're on record?

19      A. Yeah, yes, one time, yeah. Basically, they do tell  
20     you that. That is what Tommy told me.

21                  Well, when Tommy went away, like I said before,  
22     he introduced me to Richie, his brother, doing the  
23     collecting. And Richie is the one that told me if anybody  
24     ever asks you whose money this was, to say that it's  
25     Billy.

Floridia - Cross/Ms. Kedia

2399

1                   So basically that is telling me that he is  
2 putting out there that you're on record with Billy. But  
3 Billy didn't know I was on record. That's why he sent  
4 Downtown Ronnie to threaten me.

5                   You know, because if he would have known -- the  
6 reason why he got mad is because he wasn't getting his  
7 cut. So I was putting money out. I mentioned his name  
8 and he wasn't getting any money. That's why he got mad.

9                   He didn't get mad because I was putting money  
10 out. He got mad because he wasn't getting his end, which  
11 is all about money.

12 Q. So Mr. Floridia, your understanding is that you were  
13 on record with Billy but that he didn't know you were on  
14 record with him. Is that right?

15 A. That's -- yes, that's what Richie told me.

16 Q. Prior to having met Richie and Tommy Cappa, did you  
17 know a person by the name of John Cerbone?

18 A. Yes.

19 Q. And how did you know him?

20 A. We -- we knew each other from the neighborhoods.

21 Q. And did you know him to be associated with the  
22 Colombo family?

23 A. At the time, no. I didn't know.

24 Q. You didn't consider yourself an associate simply by  
25 knowing John Cerbone. Is that right?

Floridia - Cross/Ms. Kedia

2400

1 A. I didn't know anything back then. I was -- you know,  
2 I was just starting out.

3 So I mean, you're asking me now if I know. Yes,  
4 I know now. But then, I didn't know what was going on. I  
5 didn't know how this whole thing worked.

6 Q. When you say, *Yes you know now*, what does that mean.  
7 You know now what?

8 A. I know how it works. I was an associate. If you're  
9 asking me now if I knew that I was an associate, yes.  
10 When Tommy -- when I was with Tommy, I was an associate,  
11 yes.

12 Q. But you didn't know that then?

13 A. Exactly.

14 Q. Now, you say that you were on record with Billy  
15 Cutolo, and he didn't know that you were on record with  
16 him. Right?

17 A. Correct.

18 Q. So when you were an associate and you said that the  
19 reason Billy got angry was that he wasn't getting his cut.  
20 Right?

21 A. Correct.

22 Q. So when you were an associate, what made member of  
23 the Colombo family were you earning money for?

24 A. See, back then -- see, originally Tommy Cappa and  
25 Richie Cappa and John Cerbone and Paulie Rizzuto were on

Floridia - Cross/Ms. Kedia

2401

1 record with Joey Amato. But Joey Amato went to jail. So  
2 what happened is, his whole crew got taken over by Billy.

3 So they were all reporting to Billy. So that's  
4 who they were on record with. They were on record with  
5 Billy.

6 Q. But Billy wasn't getting a cut. Right?

7 A. He wasn't -- I -- obviously, he wasn't getting a cut  
8 from me -- from my end because they were -- because they  
9 were lying to him, and they made me lie to him.

10 Q. So what made member was getting a cut from you?

11 A. Well, Richie and Tommy were keeping -- they weren't  
12 kicking up what they were getting from me. So they were  
13 actually holding back.

14 Q. And Richie and Tommy Cappa certainly weren't made  
15 members. Right?

16 A. No.

17 Q. Now, you spoke about this person named Joey Amato who  
18 went to jail.

19 How do you know about Joey Amato?

20 A. Well, John Cerbone -- me and John got close. So John  
21 Cerbone is very -- was very close -- is still probably  
22 very close with Joey Amato.

23 Because he used to make -- I used to go with  
24 John to his wife's house -- well, Joey's house and cut the  
25 kid's hair -- you know, his son's hair. And while we were

Floridia - Cross/Ms. Kedia

2402

1       there Joey would call from prison and John would talk to  
2       him. And so John takes care of his family.

3       Q. I'm sorry. You cut whose hair? Whose kid?

4       A. Joey Amato's son's hair.

5       Q. And you just said that John Cerbone is probably still  
6       to this day close to Joey Amato. Right?

7                  MS. MAYER: Objection.

8                  THE COURT: Sustained.

9       BY MS. KEDIA:

10      Q. Well, Mr. Floridia, is it your understanding to this  
11     day John Cerbone is still close to Joey Amato?

12                  MS. MAYER: Objection.

13                  THE COURT: Sustained.

14       BY MS. KEDIA:

15      Q. Mr. Floridia, when is the last time you spoke to John  
16     Cerbone?

17      A. 2004.

18      Q. Before your -- before you went to jail?

19      A. Correct.

20      Q. And what about Joey Amato. Do you ever speak to Joey  
21     Amato?

22      A. No.

23      Q. So everything that you know about Joey Amato is  
24     something you heard from somebody else. Is that right?

25                  MS. MAYER: Objection.

Floridia - Cross/Ms. Kedia

2403

1                   THE COURT: Sustained.

2 BY MS. KEDIA:

3 Q. There came a point in time where you borrowed money  
4 from Joey Amato's father. Right?

5 A. Correct.

6 Q. And how much money was that?

7 A. I think it was \$20,000.

8 Q. \$20,000?

9 A. 20 or \$30,000, yes. I don't remember the exact  
10 number. But I didn't -- no, I didn't borrow it. I was  
11 told by Billy to pay him that amount.

12 Q. You were told by Billy to pay who what amount?

13 A. Joey Amato's father. You see this is -- just because  
14 Joey was in jail, he was still earning money. His crew,  
15 which was Tommy Cappa -- Tommy, Richie, John Cerbone,  
16 Paulie, they were still earning money. So they were  
17 taking care of him while they were in jail, while he was  
18 in jail.

19                   But what happened is, when they went to -- when  
20 Billy took over his crew, from what I remember, Joey was  
21 complaining that he wasn't getting the money. It kept  
22 getting lower and lower every week.

23                   So what happened is, he thought Billy started  
24 assigning people to go directly to pay Joey's father. You  
25 know, he would get his cut.

Floridia - Cross/Ms. Kedia

2404

1 Q. Mr. Floridia, do you recall telling the government  
2 that you borrowed \$50,000 from Joey Amato's father?

3 A. Technically, yes. It was Joey's money. It was his  
4 father's money, but I borrowed it from him. But I was  
5 told to go there. You understand? So it's different.

6 Q. You were told to go to him by Billy. Is that your  
7 testimony?

8 A. Yeah, because when he found out that I was paying  
9 Billy -- I was paying, you know, Tommy. You know, I was  
10 paying. Everybody had to get their rent. So by sending  
11 other people there, he just sent me directly to his father  
12 to give him his end every week.

13 Q. Do you recall telling the government that, in fact,  
14 you borrowed \$50,000 from Joey Amato's father prior to  
15 ever having met Billy Cutolo?

16 A. No. I knew -- I knew the father. I --

17 Q. Let me show you what is marked as 3500 GF-6, and I'll  
18 refer you to the last paragraph of page 1 through page 2.  
19 If you could read that to yourself.

20 A. Just the highlighted?

21 Q. Any part you like. I would refer your attention  
22 specifically to the last paragraph, starting with the last  
23 paragraph on the first page.

24 A. Okay.

25 Q. Having read that, is your recollection now refreshed

Floridia - Cross/Ms. Kedia

2405

1       that you told the government that you actually borrowed  
2       \$50,000 from Joey Amato's father prior to having met --

3       A.     It doesn't say that.

4           MS. MAYER: Objection, Judge. Can we come up?

5           THE WITNESS: It doesn't say that.

6           THE COURT: Yes, come up.

7           (The following occurred at sidebar.)

8           THE COURT: Okay.

9           MS. MAYER: It doesn't say that. It doesn't say  
10       anything about Billy Cutolo. In fact, the beginning of  
11       that paragraph says, *By 1996 or '97.*

12           And his direct testimony was that he met Billy  
13       Cutolo in 1997. And it goes on and it says, *During this*  
14       *period.*

15           So it doesn't -- there is nothing there and it  
16       is improper.

17           MS. KEDIA: When it starts about 1996 to 1997  
18       the individuals had between 200 and \$300,000 on the  
19       street. Then he has another \$50,000 that he borrows from  
20       Joey Amato's father.

21           When he meets Cutolo is when he has the between  
22       300 and 350 because now he has the original 300 from the  
23       Cappas, and another \$50,000 from Amato.

24           That is when he meets Billy Cutolo, when Billy  
25       Cutolo is angry with him. And he lies to Billy Cutolo

Floridia - Cross/Ms. Kedia

2406

1 about how much money he has.

2 THE COURT: I think you're making a number of  
3 unfound conclusions here. Based upon what this says, it  
4 does not appear that he loaned money to Joey Amato's  
5 father prior to meeting Billy Cutolo.

6 MS. MAYER: Judge, in light of the Court's  
7 ruling, I ask for the comments to be stricken. Because  
8 what is happening is, by showing this testimony, when she  
9 shows him the testimony she reads it aloud, and the jury  
10 knows what it is.

11 But what the Court has now said, is, there is  
12 nothing inconsistent. I would ask that it be stricken so  
13 it is not left in the record. There is an impression  
14 there is something different in there.

15 MS. KEDIA: That shouldn't be stricken? The  
16 witness just said he doesn't believe -- the question is  
17 not answered.

18 MS. MAYER: It doesn't say anything about  
19 Bill -- Bill Cutolo.

20 Your question is: Does it refresh your  
21 recollection that you said it was before you met Billy?  
22 Cutolo.

23 MS. KEDIA: And he said, No.

24 THE COURT: It is improper.

25 MS. KEDIA: I don't think it is improper how

## **Florida - Cross/Ms. Kedia**

2407

1 | this reads.

2 He is talking about an event that occurred. And  
3 then he is talking about another event that occurs prior  
4 to the Cutolo meeting, your Honor.

5                   THE COURT: I don't find that conclusion. And  
6 it will be struck.

7 | (The following occurred in open court:)

8                   THE COURT: Ladies and gentlemen, you're  
9 directed to disregard the last question and the answer.

10 | BY MS. KEDIA:

11 Q. Mr. Florida, there is a point in time where you said  
12 you had between 300 and \$350,000 out on the street.  
13 Right?

14 A. Yes.

15 Q. And this money was loaned to you by who?

16 A. It was Richie Cappa, there was Billy, there was the  
17 father. It was a combination of everybody. Chickie, too.  
18 I had some of my own money out there, too, my personal  
19 money involved in that.

20 Q. Well, Mr. Florida, before you ever met Billy Cutolo,  
21 you had 300 to \$350,000 out on the street. Correct?

22 | A. Correct.

23 Q. And that was money owed to you by whom before you met  
24 Billy Cutolo?

25 A. That was Richie Cappa.

Floridia - Cross/Ms. Kedia

2408

1 Q. All of it was from Richie Cappa?

2 A. When he went on record with Billy, then he had to  
3 borrow money from Billy, too.

4 So you know -- and I had my -- I had some of my  
5 own money involved in that, too.

6 Q. How much of it was your own money?

7 A. Probably about \$100,000.

8 Q. And so the 2 to 250 was from Richie Cappa?

9 A. Correct. Let me -- that number fluctuated every  
10 week.

11 I mean, it wasn't a constant number. I mean,  
12 that was the peak.

13 I mean, the next week I could have got, you  
14 know, somebody paid me \$50,000. And you know, they didn't  
15 owe me no more.

16 Q. And during this point in time when you had -- this is  
17 a significant amount of money. Right?

18 A. Correct.

19 Q. Who were your customers?

20 A. I had all sorts of people. I mean -- I mean, just  
21 regular people.

22 Q. How much money was one person borrowing at a time?

23 A. It depended. See, this one guy had -- if he owned a  
24 business, I would give him 20, \$30,000

25 Q. And that was the maximum amount you would loan one

Floridia - Cross/Ms. Kedia

2409

1       particular person?

2       A.     To one guy, I remember, yes, it was about 20,  
3           20-something thousand dollars.

4       Q.     And how much interest were you earning on that?

5       A.     I would probably charge -- we used to charge, like,  
6           3 percent interest. So on every \$10,000, he was giving  
7           \$300 a week interest.

8                   So on \$20,000 he was giving \$600 a week  
9           interest.

10                  Now that was just interest. It didn't come off  
11           the top. So he was paying \$600 a week every week until he  
12           paid back the \$20,000.

13       Q.     And that is what you routinely charged people?

14       A.     Between three to five points, yes.

15       Q.     It varied from person to person?

16       A.     Yes. Well, because I had a couple of other -- that I  
17           had some kids, a couple of kids working for me, also, now,  
18           that I gave them 50,000, and they put it out in the  
19           street. You know, they would loan it out.

20                  So it is almost like I became like a wholesaler.

21       Q.     When your customers were loaning out money, were they  
22           considered associates of the Colombo family as well?

23       A.     If they had a problem, they would drop, yes. They  
24           would say my name, and then they would -- somebody would  
25           do an investigation, and they would know that, learn that

Floridia - Cross/Ms. Kedia

2410

1 I was with Billy.

2 So if they had a problem paying, they could  
3 either make their made member go see Billy, or they had to  
4 just pay me my money. You know they had to pay the money.

5 Q. Well, when you just said that they would make their  
6 made member go see Billy, you were lending money to people  
7 who were also involved in organized crime?

8 A. Well, anybody could be an associate. So I mean, I  
9 didn't know if they were involved. I mean, somebody  
10 always has a friend or a cousin that is connected. I  
11 mean, that is just how it works in Brooklyn. Everybody  
12 knew somebody.

13 Q. Mr. Floridia, you just used the term referring to the  
14 customer as their made member.

15 What did you mean by that?

16 A. Well, I could give you a couple of examples where I  
17 lent money to somebody, and they were with, on record with  
18 somebody else in another family. And they didn't want  
19 them to know that they borrowed money, so they would pay  
20 the money -- pay the money.

21 But what happens is, then it became a problem  
22 for them to pay. So they would try to work out a deal.

23 So they would come to me, and I -- they would  
24 say, *Listen, could you work out a deal?*

25 And I would say, *Listen, it is not my money.*

Floridia - Cross/Ms. Kedia

2411

1       *You know it is not my money. You got to give me what I*  
2       *gave.*

3                   So he would go and reach out to another guy who,  
4       you know, had another made member in the family. And they  
5       would meet with another, my made member. And they would  
6       sit down, either straighten it out -- *Well, listen you got*  
7       *to give me \$10,000.* You got -- you know, they would make  
8       deals. That's how it works.

9       Q. And who was your made member that they would sit down  
10      with?

11      A. I was on record with Billy.

12      Q. So give the jury an instance where a guy you loaned  
13      money to had their made member sit down with Billy?

14      A. You see, that's where it gets -- because me being an  
15      associate, I don't know what goes on at these meetings.  
16      But when made members -- you're not allowed to be around.

17                  So they would do it on their own, which most of  
18      the time what would happen is, the guy putting out the  
19      money and the guy who took the money wind up getting  
20      screwed.

21                  So that is what usually happened, because you're  
22      left in the dark.

23      Q. Mr. Floridia, was there ever an occasion where you --  
24      do you know what a sit-down is?

25      A. Correct.

Floridia - Cross/Ms. Kedia

2412

1 Q. What is a sit-down?

2 A. It is when made members sit down at a table and go  
3 over and they try to, you know, work out their beefs -- or  
4 a dispute.

5 Q. Was there ever an occasion where you and your made  
6 member, Billy Cutolo, and some other person you loaned  
7 money to from another family and his made member ever had  
8 a sit-down?

9 A. No, because I never got to that relationship with  
10 Billy.

11 Q. You never got to that relationship with Billy?

12 A. Exactly. I wasn't -- you know, I was with Billy, but  
13 I was still, you know, a young kid. I didn't know what  
14 was going on, you know. He didn't want me around him.  
15 You know what I mean?

16 I mean, I was at the club as an associate. I  
17 made money. But, you know, I just didn't -- that is just  
18 how it is. You got to work your way up.

19 Plus then, with Chickie is another story because  
20 me and Chickie got very close. And I was with Chickie on  
21 a few sit-downs because of the relationship that me and  
22 Chickie had.

23 Q. Well, we'll talk about Chickie, but let's talk about  
24 Billy.

25 You have said that Billy didn't want you around.

Floridia - Cross/Ms. Kedia

2413

1 Is that right?

2 A. Not around sit-downs, no. He didn't want nobody  
3 around. He wanted the people that -- because you got to  
4 remember, Billy was an underboss. So he didn't even have  
5 to talk to captains. You know, only that status, because  
6 he's a higher ranking member of the family.

7 So, you know, even another -- another -- you  
8 know, it goes by ranks.

9 Q. Mr. Floridia, didn't you say that you went to the  
10 club every week -- every Wednesday night because Billy  
11 Cutolo directed you to do so?

12 A. Correct.

13 Q. But he didn't want you around?

14 MS. MAYER: Objection.

15 THE COURT: Sustained.

16 BY MS. KEDIA:

17 Q. Mr. Floridia, who taught you the business of the  
18 Colombo family?

19 A. Well, I started learning when -- you know, as you  
20 go -- as you climb the ranks and you go -- you know, and  
21 you see -- you go to the club and I start hanging out with  
22 these people. You start learning the everyday business.

23 But when you hook up with a made member and  
24 you're directly with a made member, and he likes you, like  
25 I clicked with Chickie, he taught me a lot. He taught me

Floridia - Cross/Ms. Kedia

2414

1       a lot about the family. Because he basically -- he told  
2       me he wanted me to become a made member.

3       Q.      Chickie told you he wanted you to become a made  
4       member?

5       A.      Yes.

6       Q.      When was that?

7       A.      Around -- probably around the shooting of Joe.

8       Q.      2001?

9       A.      Correct.

10      Q.      And when is it that Chickie started teaching you  
11       about the Colombo family?

12      A.      Well, it's not like he told me to go get, you know, a  
13       pad and start writing down things. He taught my by  
14       keeping me with him. Remember, I used to stay with him  
15       every day.

16                  So just me staying with him was him teaching --  
17       him teaching me.

18      Q.      So what year would you say that was?

19      A.      It was when I was with Billy. It was after -- when  
20       I was with Chickie. It was after Billy was gone.

21      Q.      So sometime after mid-1999?

22      A.      Correct.

23      Q.      Prior to mid-1999, did you understand the structure  
24       of the Colombo family?

25      A.      Yes. How to make -- I had an idea.

Floridia - Cross/Ms. Kedia

2415

1 Q. And you had an idea from whom?

2 MS. MAYER: Judge, I'm sorry to interrupt. May  
3 we approach?

4 THE COURT: Sure.

5 (The following occurred at sidebar.)

6 MS. MAYER: I apologize. Here is my concern.  
7 It is almost three o'clock and both counsel have been  
8 dumping stacks of records on us. And all of the arguments  
9 we had this morning, they were jumping up and down about  
10 how critically important he is. And it appears that the  
11 entire hour of cross-examination is about collateral  
12 issues.

13 And I'm not here to tell the defense counsel  
14 what they should do, but, you know, the first witness I  
15 had on the stand was cross-examined for ten hours. And so  
16 if this is going to continue, then I would renew our  
17 effort to have the Court to consider imposing a time  
18 limit.

19 Because while I -- again, I do not want to get  
20 in between a defense counsel's right to have a full and  
21 fair cross-examination. There has to be a balance. And  
22 if we're not -- I mean because then the last time is five  
23 or six or seven hours into it -- well, we still have three  
24 critical areas.

25 And I just want it brought to the Court's

Floridia - Cross/Ms. Kedia

2416

1 attention, so that we can sort of keep a time on this.

2 MS. KEDIA: Your Honor, it goes to the very  
3 heart of this case. This person's knowledge about the  
4 Colombo family, about the people he is saying --

5 THE COURT: Back to the early nineties?

6 MS. KEDIA: Well, he starts getting involved in  
7 the mid-nineties. And his relationship with Billy Cutolo,  
8 or his lack of a relationship with Billy Cutolo is what I  
9 believe I can show.

10 It is fundamental to this case. He has made  
11 himself out to be someone who reports to Billy Cutolo  
12 every week, goes to the club every week.

13 Your Honor knows from Joseph Campanella that is  
14 absolutely not true. And I should absolutely be able to  
15 explore what his knowledge is. Really, it has become --

16 THE COURT: What is the date in issue here?

17 MS. KEDIA: He talks about the Cutolo  
18 disappearance, and the shooting, your Honor. He doesn't  
19 only limit himself to the shooting. He is making himself  
20 an intricate part of this family.

21 THE COURT: It has him -- there has to be some  
22 balance here. Rather than going back 5, 6 years, why  
23 don't you start to focus on his relationship with Cutolo  
24 post-1990, just slightly before he disappears. Okay?

25 Because you're going back and you're asking all

Floridia - Cross/Ms. Kedia

2417

1 collateral issues.

2 I allowed you extensive cross-examination on the  
3 credit card fraud. And I allowed you now extensive  
4 cross-examination with respect to loansharking.

5 But there comes a point in time when you must  
6 focus on what this witness' really critical testimony is.

7 MS. KEDIA: I understand, your Honor. But just  
8 so your Honor is aware, the point that I'm making is this  
9 is a person who is committing crimes with other people,  
10 having absolutely nothing to do with the Colombo family.  
11 And I believe we can show that one of those people was  
12 with him in this conspiracy.

13 So, you know, it wasn't my client as he said it  
14 was. It was other people having absolutely nothing to do  
15 with the Colombo family. So his relationship to these  
16 other people and the development of this --

17 THE COURT: You're saying it was someone else --

18 MS. KEDIA: Yes.

19 THE COURT: -- that did the shooting?

20 MS. KEDIA: He certainly had discussions with  
21 somebody else. And somebody else may have been present.

22 THE COURT: So get to it.

23 MS. KEDIA: I have to develop the relationship  
24 in order to get to it, and show the nature of the  
25 relationship, and the fact that that person wasn't

Floridia - Cross/Ms. Kedia

2418

1 involved in the Colombo family at all. That is the point.

2 THE COURT: We're going to be winding down.

3 MS. KEDIA: This area, yes, Judge.

4 THE COURT: Very soon. All right?

5 MS. KEDIA: Yes, Judge.

6 THE COURT: And I'll hear your application to  
7 shorten this.

8 MS. MAYER: Because what is happening is  
9 Mr. LaRusso is going to come up and say, as he did this  
10 morning, This is critical, and we're going to have to --

11 THE COURT: All right. That is another  
12 argument. Let's move along.

13 MS. MAYER: Okay.

14 (The following occurred in open court:)

15 (Continued on the following page.)

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25

Floridia - Cross/Kedia

2419

1       CROSS-EXAMINATION (cont'd)

2       BY MS. KEDIA:

3       Q      Mr. Floridia, you just testified a few minutes ago  
4      that you had a customer whom you loaned \$20,000 to?

5       A      Yes.

6       Q      That was the highest amount that you had ever loaned  
7      out to one person, right?

8       A      Well, no, I gave an example.

9       Q      So what is the highest amount that you ever loaned  
10     out to one person?

11      A      There was one guy, Carl, that I gave up to 100,000 at  
12     one point.

13      Q      \$100,000?

14      A      \$100,000.

15      Q      How much were you charging that person?

16      A      3 percent.

17      Q      Was he paying you?

18      A      Yes.

19      Q      What period of time was that?

20      A      It was -- he had it for a while so it had to be '98,  
21     probably, yes, after Billy was gone. Had to be about '99,  
22     2000.

23      Q      Whose money was that?

24      A      That was basically, you know, either Joey Amato's  
25     money, Chickie, I mean, you know, everybody had a little

Floridia - Cross/Kedia

2420

1 piece of it.

2 Q How much money did you borrow from Chickie DeMartino?

3 A Then at one point he gave me an additional \$70,000 to  
4 put out.

5 Q Additional to what?

6 A To loan-shark out.

7 Q When you say "additional," in addition to what?

8 A Well, like I said before, the numbers, you know,  
9 changed so at the time, I could have, you know, had  
10 \$150,000 so, you know, people pay back the money. They  
11 don't keep it forever. I can't give you an example  
12 number, I would be guessing.

13 Q Mr. Floridia, did you have money already outstanding  
14 to Chickie DeMartino when he loaned you \$70,000, is that  
15 what you are saying?

16 A Well, the money that he took over from Billy, yes.

17 Q So your testimony is that he took over approximately  
18 \$100,000 of money that you owed to Billy Cutolo?

19 A He took over -- when they got rid of Billy, yes.

20 Q It was \$100,000 approximately?

21 A Approximately \$100,000.

22 Q And now you are saying that in addition to that, he  
23 loaned you \$70,000, is that right?

24 A You see, from that 100, somebody could have paid me  
25 back 5,000, 10,000 so it wasn't a number that was fixed.

Floridia - Cross/Kedia

1           It fluctuated all the time. I don't know how many -- it  
2           fluctuates. That number always changes.

2421

3           Q       What's the most amount of money you had borrowed from  
4           Chickie DeMartino including the \$100,000?

5           A       I can't give you specific numbers, I'm sorry. I  
6           would be guessing.

7           Q       Did you keep any kinds of records of what you owed to  
8           various people?

9           A       Yes, I did. I had them on a disk and --

10          Q       On a disk, like a computer disk?

11          A       On a computer disk. Actually, on my computer. And  
12         when I cooperated, I actually told the FBI and I tried to  
13         get everybody to find this computer that I had because I  
14         knew I erased it but I know from knowing computers that it  
15         stays on the hard drive but what winded (sic) up  
16         happening, we couldn't find the computer, the modem that I  
17         used to keep it on. But I told the FBI about it.

18          Q       You told the FBI about your records and about the  
19         computer?

20          A       Correct.

21          Q       And the computer was at your home?

22          A       Yes.

23          Q       When did you erase the information from your  
24         computer?

25          A       Well, as soon as I, you know, put it in, I would put

Florida - Cross/Kedia

1 it on a disk and then erase it off the computer. But it  
2 would never really get erased off the computer. It gets  
3 encrypted into the memory, into the hard drive. So if  
4 somebody is really looking for it, it would always be  
5 there.

6 | Q Did the FBI take your computer?

7 A Like I said just now, we tried to find this computer  
8 because it was an old Compaq computer many years ago and I  
9 thought we still had it somewhere in the garage or the  
10 attic and we couldn't find it.

11 Q When you say it was old, what year are you talking  
12 about that you had these records, these loan-sharking  
13 records on your computer?

14 A It was probably up until -- I mean, I have always  
15 kept records, you know, on the computer so, I mean, I  
16 can't give you a year. I don't know. I always kept a  
17 record of the money.

18 Q Did you have them up until the time that you were  
19 incarcerated after you were convicted of shooting Mr.  
20 Campanella?

21 A See, what happened is all the money went bad. If you  
22 remember, all the money on the street was -- I winded up  
23 owing the money that -- the money went bad on the street;  
24 that's why I left, because Chickie threatened me to kill  
25 me if I didn't get the money. So that happened in 2000.

Floridia - Cross/Kedia

2423

1 So there was no money -- I wasn't loan-sharking from 2000  
2 on because I wasn't a producer no more. I wasn't  
3 loan-sharking.

4 Q So the records that you were keeping were only up  
5 until 2000, is that what you are saying?

6 A Correct.

7 Q And in 2000, you had them on your computer and you  
8 had them on this disk?

9 A Correct.

10 Q And where did the disk go?

11 A They are gone.

12 Q Did you have any printed out records?

13 A I would have a printed record, yeah, weekly. But  
14 that would get thrown away too. Once I collected all the  
15 money, I would get rid of it.

16 Q When you say your customers went bad, you mean they  
17 quit paying you?

18 A Yes.

19 Q And how much money did you have out on the street  
20 when this happened?

21 A I winded up -- I owed them 100 something thousand  
22 dollars.

23 Q You owed who?

24 A I owed Chickie the money.

Q What about the 3 or \$350,000 that you had out with

Floridia - Cross/Kedia

2424

1       Richie Cappa?

2       A     See, that 350 is the highest number I have had in  
3           loan-sharking and I just told you before that the number  
4           always fluctuated. So it was never a set amount. It  
5           winded up going from the highest to the lowest which I got  
6           left holding the bag at 100,000 and change.

7       Q     Was there ever a point, Mr. Floridia, that you had  
8           money borrowed from Chickie DeMartino and Richie Cappa and  
9           Joey Amato's father?

10      A     Yes.

11      Q     When?

12      A     What do you mean when?

13      Q     When? What year?

14      A     For 2000. From '97 to 2000.

15      Q     So when the money went bad, it was everybody's money,  
16           is that right?

17      A     Doesn't matter. See, I was responsible for the money  
18           so they don't care if you take the money and flush it down  
19           the toilet bowl right after they give it to you, it's your  
20           money now, period.

21      Q     I'm asking you when it went bad in 2000, this was  
22           money borrowed from Vincent DeMartino and Richie Cappa and  
23           Joey Amato's father?

24      A     No; this was directly with Chickie.

25      Q     So you had already repaid everything that you had

Floridia - Cross/Kedia

1 owed to the other two people, is that what you are saying? 2425

2 A Yes.

3 Q How did you accomplish that?

4 A People repaid and they got their money back and the  
5 bill was gone.

6 Q When did you finish paying off Richie Cappa?

7 A I don't remember. I don't know. I don't remember  
8 that date.

9 Q A year. I don't mean a date.

10 A I really -- when I went on record with Chickie, in  
11 '99, like when Billy was gone and we were out free, you  
12 know, doing our thing, everybody was paid. So I can give  
13 you a number by '99, everything started getting  
14 straightened out, right after Billy disappeared.

15 Q Did you continue any association with Richie Cappa?

16 A No, not at all.

17 Q Not at all?

18 A No.

19 Q Meaning you didn't see him after 1999?

20 A He wasn't -- I wasn't with him anymore. We weren't  
21 in the same crew. He was with Joey, Joe Campy.

22 Q Mr. Floridia, you described a time when you and Mr.  
23 DeMartino actually were threatening Richie Cappa, right?

24 A Yes.

25 Q What year was that?

Floridia - Cross/Kedia

2426

1 A That was '99.

2 Q When in 1999?

3 A After Billy disappeared.

4 Q How long after Billy disappeared?

5 A I don't know. Maybe a month or two, two months.

6 Right after.

7 Q It was you and Chickie DeMartino and Richie Cappa and  
8 who else?

9 A That's it. I set up the meeting with -- Chickie  
10 wanted to find out how much money he had on the street and  
11 how much he owed Billy and he took me there to make sure  
12 that Richie was telling the truth.

13 Q Because you knew?

14 A I didn't know but he knew that Richie was a liar, you  
15 know, he made me lie to Billy so he -- like he made him  
16 know that I'm on to your games, don't play games with me.  
17 You know what I mean?

18 Q Where was this meeting?

19 A It was in Brooklyn on Bay Parkway near the train  
20 station.

21 Q Meaning on a street corner somewhere?

22 A Yes.

23 Q How long was this meeting?

24 A Probably about ten minutes.

25 Q After Chickie DeMartino threatened Richie Cappa and

Floridia - Cross/Kedia

2427

1 asked him how much money he had out on the street, Richie  
2 Cappa said what?

3 A I don't remember actually -- he told him a number and  
4 he says I wouldn't lie to you, you know. I guess that's  
5 it. I don't remember the conversation really but I know  
6 it was about money.

7 Q Well, did you see Richie Cappa again after that  
8 meeting?

9 A I don't remember. I don't remember.

10 Q Mr. Floridia, you testified that you went to Billy  
11 Cutolo's club between '97 and '99 before he disappeared,  
12 right?

13 A Can you repeat that?

14 Q You testified that you went to Bill Cutolo's club  
15 between 1997 and 1999 before he disappeared, right?

16 A Yes.

17 Q Did you continue to go after he disappeared?

18 A The club was open for a little while after he  
19 disappeared but then they shut it down.

20 Q How long?

21 A I think it was shut down the same year

22 | 0 In 1999?

23 A Yes; I'm not sure but I think so

34 0 After 1999, you didn't go there anymore?

There was no need to go there. No

Floridia - Cross/Kedia

2428

1 Q Now, is Richie Cappa someone who went to the club  
2 too?

3 A He would show up every once in a while but he would  
4 go to the bar and make his payments but he would show his  
5 face but he was in and out. He wouldn't hang around.

6 Yes, he would go to the club too. Yes.

7 Q When?

8 A What do you mean when?

9 Q What years did you go to the club?

10 A He would make his payment Wednesday night.

11 Q Before Billy disappeared?

12 A Yes.

13 Q What about after?

14 A I told you I stopped -- I didn't need to go to the  
15 club anymore.

16 Q Now, you testified that Chickie DeMartino, I believe  
17 that he didn't go to the club because of Billy, right?

18 A Yes.

19 Q And one of the reasons that he didn't go to the club  
20 because of Billy is because he was on supervised release,  
21 right?

22 A Correct.

23 Q Meaning that he had gotten out of prison and he had  
24 to report to a probation officer, right?

25 A I believe so. Yes.

Floridia - Cross/Kedia

1 Q Well, Richie Cappa was in that same situation, right? 2429

2 A Richie?

3 Q Yes.

4 A I don't think so.

5 Q You are not aware of it?

6 A No.

7 Q Richie Cappa, as far as you know, was going to that  
8 club regularly?

9 A From what I remember, I seen him there a few times,  
10 yes. Whether he wasn't allowed to go there or not, he was  
11 there.

12 Q You didn't hear Billy Cutolo tell him not to come?

13 A No.

14 THE COURT: Ms. Kedia, we are going to take our  
15 mid-afternoon break of 15 minutes.

16 Counsel, just approach.

17 (The jury leaves the courtroom.)

18 THE COURT: Ms. Kedia, you have a number of  
19 photographs that were marked. I assume you are going to  
20 be getting into that area of the meeting?

21 MS. KEDIA: I expect to get into it.

22 THE COURT: You are winding up this area in  
23 terms of the loan-sharking activity?

24 MS. KEDIA: Yes, your Honor.

25 THE COURT: That's gone as far as it's going.

Floridia - Cross/Kedia

1 MS. MAYER: Can we ask for a prediction how long 2430

2 Ms. Kedia will be with this witness?

3 THE COURT: You will be done with this witness  
4 by today?

5 MS. KEDIA: I don't know. But I will take the  
6 rest of the day.

7 THE COURT: Please get going.

8 MS. KEDIA: I will try and move along.

9 (A recess was taken.)

10 (The jury enters the courtroom.)

11 THE COURT: Please be seated.

12 We will resume.

13 BY MS. KEDIA: (cont'd)

14 Q Mr. Floridia, when you met Billy Cutolo, was that  
15 before or after you met Chickie DeMartino?

16 A Before.

17 Q Before?

18 A Yes.

19 Q Approximately how long before?

20 A I really don't remember.

21 Q Sorry?

22 A I really don't remember.

23 Q A year or two years or can you give us any  
24 approximation?

25 A Could have been the same year.

Floridia - Cross/Kedia

2431

1 Q What did you learn that Billy's position was in the  
2 family when you met him?

3 A See, I can't go by when I met him. I can tell you  
4 now. I only know Billy as the underboss so I could answer  
5 that, I only know him as the underboss.

6 Q When you say you couldn't tell us when you met him,  
7 what does that mean?

8 A Because I didn't know, you know, I was all new. It  
9 was a new game. I didn't know all the rules. I didn't  
10 know who was what. I didn't know who was who.

11 Q All new to you?

12 A Exactly.

13 Q This was in '96 or '97, right?

14 A Yeah. About '97, yeah, around there.

15 Q When you met Billy Cutolo, you were told to come to  
16 his club, right?

17 A Yes.

18 Q And it was a situation where he was very angry with  
19 you, right?

20 A I used his name, yeah.

21 Q You used his name, you thought you had permission but  
22 you didn't have permission, right?

23 A Correct.

24 Q You thought that you were an associate but he didn't  
25 think so, is that right?

Floridia - Cross/Kedia

2432

1 A Right.

2 MS. MAYER: Objection.

3 THE COURT: Sustained.

4 Q Well, Mr. Floridia, you certainly thought you were an  
5 associate of the Colombo family at the time, right?

6 A I didn't know. I just knew that, you know, I was  
7 putting money out and I was doing what I was told. I  
8 didn't think of myself oh, I'm an associate now and here  
9 is the pin. It wasn't like that. I know now I'm an  
10 associate or I was an associate.

11 Q Well, you said there was a point in time where Tommy  
12 Cappa specifically told you that you were on record now,  
13 right?

14 MS. MAYER: Objection.

15 THE COURT: Sustained.

16 Q Did Tommy Cappa tell you that you were on record now  
17 at any point?

18 A No.

19 Q Did Richie Cappa ever tell you you were now on  
20 record?

21 A No. I was on record with Billy, that's who told me.  
22 Once I started going to the club, now I'm directly -- I  
23 was on record with Billy.

24 Q So prior to having met Billy, you weren't on record?

25 A I thought I was but apparently -- I thought I was

Floridia - Cross/Kedia

2433

1 with Billy originally, right. I thought I was with Billy  
2 but when I dropped his name, obviously, I wasn't.

3 Q When you went to the club, who did you go with that  
4 first time?

5 A I met -- I drove. I think I was by myself. I met  
6 Paulie.

7 | Q You arrived alone?

8 | A Correct.

9 Q Paulie Rizzuto was already there?

## 10 A In the club.

11 | Q Inside the club?

12 A Yes.

13 Q Was this a Wednesday night or some other night?

14 A Wednesday night.

15 Q Who else visited the club?

A There was a lot of people there.

17 Q Name some of the people.

18 A Joe Campy, Frank Campy, Black Dom, Paulie. It was  
19 pretty packed. There was a lot of people there.

20 Q And you walked in and what happened?

21 A I went to go see Paulie and then eventually he took  
22 me to Billy.

23 Q Paulie is someone you had just met on one occasion,  
24 right?

25 A Well I knew Paulie also from the neighbourhood

Floridia - Cross/Kedia

2434

1 Q You had known him before you knew the Cappas even?

2 A Yes.

3 Q Did you know him before you knew John Cerbone?

4 A I don't know. I don't remember.

5 Q Did you know he was affiliated with the Colombo  
6 family?

7 A No. I just -- I didn't know John was affiliated  
8 either when I met him so no, I don't know.

9 Q There came a point where Paulie came and told you you  
10 had to come to the club, right?

11 A Correct.

12 Q So you go to the club and you see Paulie, you say  
13 hello to him, is that right?

14 A Well, I go to the club because Billy wanted me to go  
15 to the club.

16 Q Right.

17 A Paulie told me to meet him at the club and he took me  
18 over to Billy and that's when' Billy told me, you know,  
19 you gotta start coming to the club from now on.

20 Q Where were you in the club when he took you over to  
21 Billy?

22 A Well, the club was one big open room and then there  
23 was a little room to the side but everybody in the open  
24 room so it was by a table.

25 Q So you and Paulie and Billy were in the open room?

Floridia - Cross/Kedia

2435

1 A There was everybody in the open room. I wasn't  
2 alone. There was, you know, a lot of people there.

3 Q When you had a discussion with Billy Cutolo that day,  
4 were three of you separated from the others or was this  
5 all in front of a bunch of people?

6 A I remember everybody being around and basically, it  
7 wasn't a discussion, it was him asking me, you know --  
8 there was no discussion.

9 Q Tell us what happened on that day.

10 A He told me: Who told you to drop my name? And I  
11 told him that Richie was the one. He asked me how much  
12 money I had out. And I told him between 80 and 100. He  
13 said: From now on I want you to start bringing it to the  
14 club, go to the bar.

15 Q Was Richie Cappa there at the time?

16 A No.

17 Q Were you introduced to Billy as the underboss of the  
18 family?

19 A No.

20 Q Were you introduced to anyone at the club and told  
21 their position in the family?

22 A No. We didn't -- no, that wasn't done, never.

23 Q Never?

24 A No, it wasn't -- I was an associate. It wasn't --  
25 people didn't meet like that.

Floridia - Cross/Kedia

1 Q When you went to the club on subsequent occasions for  
2 that two-year period when you routinely went on Wednesday  
3 nights, were you ever introduced to anyone formally?

2436

4 A Yeah. Yes, I was introduced but it was that this is  
5 Tony or this is Pete or this is Rob but it wasn't like  
6 this is Tony and he is a made member or this is Charlie  
7 and he is a captain so you can't -- it wasn't spelled out  
8 like that.

9 Q So you were just allowed to talk to anyone and  
10 everyone in the club, is that right?

11 A Whoever I was introduced to.

12 Q "Introduced" meaning simply by name not by rank?

13 A Yeah. Because we all got to get to know each other  
14 coming every week, you see the same faces, you are at the  
15 bar, you are drinking with them. So you strike up  
16 conversations with people. That's what it was all about.  
17 I guess it was networking -- if I have to say something  
18 and describe it, it's network, what do you have that me  
19 and you can work together and make money.

20 Q Was your understanding that there was no one that was  
21 off limits for you to speak to?

22 A Well, from my understanding, you couldn't approach a  
23 made member. They can only talk to you.

24 Q Well, weren't many of the people that were going to  
25 the club on a regular basis made members?

Floridia - Cross/Kedia

2437

1 A They were there but there was a lot of other people  
2 there too that wasn't made members.

3 Q You were only speaking with the people who weren't  
4 made members?

5 A No, I was speaking to people who were made members  
6 like Joe but I didn't know that he was a made member.  
7 Like I said, I didn't know their ranks and who was what.  
8 So I could have been talking to him but it's not like he  
9 would say: Stop, you can't talk to me, I'm a made guy.  
10 It wasn't like that.

11 Q Well, you have testified here that Billy Cutolo was  
12 the underboss of the family, right?

13 A Correct.

14 Q How did you learn that?

15 A Through the family.

16 Q Through whom?

17 A Through John Cerbone. People that I talked to that  
18 we talked about who is who and what, that he was the  
19 underboss and he is our go-to guy. It winded up being  
20 that he was the underboss but I was -- we were directly  
21 with Billy.

22 Q Mr. Floridia, John Cerbone told you that Billy Cutolo  
23 was the underboss?

24 A Could have been a couple of people. Yes, John could  
25 have been one of them.

Floridia - Cross/Kedia

2438

1 Q When you say "could have been," do you have a  
2 recollection of it or not?

3 A All I know is that I was told, yes, I have a  
4 recollection of being told. I can't give you a specific  
5 conversation on when it happened or who. I can't tell  
6 you. I'm sorry.

7 Q Can you give us a year?

8 A It was before 1999.

9 Q Any particular year before 1999?

10 A It was between 1997 and 1997 and 1999, I can tell you  
11 that much. If I have to narrow it down, that's my answer.

12 Q Were you told at that time who the consigliere of the  
13 family was?

14 A No.

15 Q Did you understand that there was such a thing?

16 A Back then?

17 Q Yes.

18 A No, I didn't -- no. Not that I remember, no.

19 Q You didn't ask any questions about it?

20 A No.

21 Q Did you understand who various captains in the family  
22 were?

23 A Not back then, no.

24 Q Well, you testified in this courtroom that Allie Boy  
25 was the boss, right?

Floridia - Cross/Kedia

2439

1 A Correct.

2 Q Who told you that?

3 A It was just known. It was told. We know who our  
4 boss is. We know, you know, we just know. You know. You  
5 are told. Some way or another you are told. They don't  
6 send out memos when positions change. I mean, this is not  
7 a corporation where we all get together and have corporate  
8 meetings and discuss Frank and this, it just doesn't work  
9 that way. I'm sorry, I can't elaborate like that.

10 Q You have no idea who told you sitting there on the  
11 witness stand today?

12 A I don't remember, no.

13 MS. MAYER: Objection.

14 Q When you say "when positions change," you understand  
15 that positions do change, is that right?

16 A Constantly. From what I understand, you can get  
17 killed and all of a sudden you are gone.

18 Q Or you could go to jail?

19 A Or you could go to jail.

20 Q And all of a sudden you are gone, right?

21 A You are gone. You are forgotten, yes. Until you  
22 come back out.

23 Q You are forgotten until you come back out?

24 A Yes.

25 Q So meaning you are kind of not really part of the

Florida - Cross/Kedia

1 family, is that what you mean when you say "forgotten"?  
2 A You are still part of the family. You are still with  
3 like -- you are still -- let's say your made member goes  
4 to jail, for example, Joey Amato and his crew was John  
5 Cerbone and Paulie Rizzuto, these are the guys that were  
6 with Joey when he was home, so when he went to jail, they  
7 are still with him technically, right, but he can't -- if  
8 they have a problem, Joey, obviously, can't go to a sit  
9 down so they got put with Billy so Billy can handle their  
10 problems. So that's how it works.

11 Q So meaning a made member is still a made member, he  
12 is just not running his crew, for example, is that what  
13 you meant?

14 A Well, yeah, exactly.

15 Q Now, you talked about a change in administration,  
16 change in not administration but change in any kind of  
17 rank. Someone can go from being an associate to soldier,  
18 right?

19 A Well, when I was around, there was a change of  
20 administration, you said it right, yeah, there was.

21 Q You understand that someone can go from being an  
22 associate to a made member, right?

23 A Correct.

24 Q In fact, you were someone who was told by Chickie  
25 DeMartino that you might go from being an associate to a

Floridia - Cross/Kedia

2441

1 made member?

2 A Yes.

3 Q You understand someone can go from being a made  
4 member to a captain?

5 A Right.

6 Q Or holding some other administration position, right?

7 A Yes.

8 Q Did you ever learn about a change during the time  
9 that you were affiliated with the Colombo family of the  
10 consigliere of the family?

11 A I don't even know who it was at the time. I'm still  
12 confused who it was. I don't even know.

13 Q Do you understand -- did you ever hear the term  
14 "acting"?

15 A Like a what?

16 Q Like an acting captain.

17 A Yes.

18 Q What does that mean?

19 A I guess they are in place for someone who is away, in  
20 prison. That's what I believe it is.

21 Q Meaning they are acting for them?

22 A They are acting for them. They are in their place.

23 Q Now, when you heard that Allie Boy was the boss, did  
24 you hear he was the boss or he was the acting boss?

25 A Well, I think I did hear he was acting boss, yes.

Floridia - Cross/Kedia

2442

1 Q Who was he acting for?

2 A His father.

3 Q When did you hear that?

4 A I don't know. I think I heard it in the newspaper or  
5 in an article or somewhere. I don't know. I don't think  
6 anybody told me that directly.

7 Q And what about his father, who told you that he was  
8 the boss?

9 A Well, listen, we grew up in Brooklyn, you just know  
10 these things. You just know.

11 Q So that's something you knew to be the case long  
12 before you actually became affiliated with the family?

13 A Well, yeah, I knew bosses of other families also.  
14 You just -- I can't tell you how, you just learn these  
15 things as you go along.

16 Q Meaning rumor on the street or something you read in  
17 the paper or whatever, growing up in the neighborhood?

18 A Could be.

19 Q Now, you understand that there are rules within  
20 organized crime, right?

21 A Yes.

22 Q And do you understand what the penalty is for  
23 cheating the underboss out of money like you were doing  
24 with Billy Cutolo?

25 A The rules are there but they are only used when it's

Floridia - Cross/Kedia

1           in their favor. The rules are broken every time. It only  
2           favors them, the rules. The rules are always broken.

3           There is rules there but that doesn't mean that, you know,  
4           everybody follows them.

5       Q     Were the rules ever explained to you, Mr. Floridia?

6       A     Explained? I guess I learned as I went along. I  
7           don't remember like being sit down and saying: This is  
8           the Colombo family handbook, go home and read it. So no,  
9           it wasn't things like that, no.

10      Q     Mr. Floridia, when you say you learned, who did you  
11           learn from?

12      A     From other associates in the family, I mean, other  
13           people, my friends, people who I thought were my friends  
14           that we were all associates and we all talked.

15      Q     Did you learn what the penalty was for cheating the  
16           underboss out of money?

17      A     You could be killed. You could be killed -- when it  
18           came to money, you would be killed, yes.

19      Q     You did that though, right?

20      A     Yeah.

21      Q     You are certainly not dead?

22      A     I didn't know any better. Yeah.

23      Q     Meaning you did it and you didn't understand what you  
24           were doing, is that what you are saying?

25      A     Well, back then, I was all new so I'm only doing

2443

Floridia - Cross/Kedia

2444

1 what, you know, my friend is telling me to do. I was  
2 ignorant. So yeah, that's a word I would use, I was  
3 ignorant.

4 Q Well, at some point in time you met Billy Cutolo and  
5 you realized he was a pretty fierce individual, right?

6 A Well, once you start mingling in that like mob  
7 circuit, where you start going to clubs and bars and, you  
8 know, you are mingling around these people, you start  
9 learning, you know, who these guys really are. After I  
10 met Billy and I started knowing who he was because now I'm  
11 known that I'm with Billy. See, when you get put on  
12 record with somebody, it's not just between you and the  
13 guy you are getting put on record with, he puts it out  
14 there, he puts it out to other people that listen, this  
15 guy is with me, he is making money for me. If anybody has  
16 a problem, you are going to be dealing with me so let this  
17 kid do what he has gotta do. You know what I mean?

18 Q Once you met Billy Cutolo, you realized he was a  
19 scary guy?

20 A He was an animal; yes.

21 Q An animal?

22 A Yes; he was a bad guy.

23 Q What do you base that on?

24 A Reputation. Ruthlessness. Agreed. Games. What he  
25 did to his own friends. He was a bad guy. That's why he

Floridia - Cross/Kedia

2445

1 got to be an underboss.

2 Q What's your understanding is?

3 A You don't make it to the top being a good guy.

4 Q Well, you never even made it to being a made member  
5 even though you participated in a shooting?

6 MS. MAYER: Objection.

7 THE COURT: Sustained.

8 Q Mr. Floridia, is that what you were trying to do, be  
9 a bad guy when you participated in shooting Joseph  
10 Campanella? Is that what you were trying to do?

11 A I was on my way to being just like them.

12 Q You were trying to become a made member, right?

13 A Like I said, I was brainwashed and that's what I  
14 believed at the time and I was becoming an animal just  
15 like them, yes. That's my answer to you. Yes.

16 Q Yes, you were trying to become a made guy?

17 MS. MAYER: Objection.

18 THE COURT: Sustained. Move on.

19 Q Mr. Floridia, after you participated in shooting  
20 Joseph Campanella, you actually never achieved your goal,  
21 right?

22 A Well, see, when I --

23 Q Yes or no, you never achieved your goal, right?

24 MS. MAYER: Objection.

25 A Of course not. No.

Floridia - Cross/Kedia

2446

1 Q You have testified that in fact you and Chickie  
2 DeMartino -- Chickie DeMartino was supposed to become a  
3 captain, according to you, after this shooting, right?

4 A Yes.

5 Q That was supposed to be his award, right?

6 A He was moving up, yes.

7 Q And you were moving up?

8 A And he wanted me to go with him.

9 Q And you testified in fact you kind of received a lot  
10 of respect, right after it?

11 A Of course.

12 Q Of course because you participated in shooting  
13 somebody, right?

14 A Wouldn't you be afraid?

15 Q Mr. DeMartino wasn't promoted to captain and you  
16 weren't promoted to soldier?

17 A Well, thank God Joe lived.

18 Q Mr. Floridia, you know that Mr. DeMartino was never  
19 promoted to a captain, right?

20 A I can't tell you for sure; no.

21 Q During the time that you were around him before you  
22 were incarcerated?

23 A I didn't know what meetings he went to so I really  
24 don't know.

25 Q So you know what ranks the boss has, the underboss

Floridia - Cross/Kedia

2447

1 has but you don't know this guy's rank that you are  
2 around?

3 MS. MAYER: Objection.

4 THE COURT: Sustained. Stop arguing.

5 Q Were you around Chickie DeMartino every day during  
6 that time as well?

7 A Not every day.

8 MS. MAYER: What time period are we talking  
9 about?

10 MS. KEDIA: After the Campanella shooting.

11 A No, not every day after the shooting.

12 Q Chickie DeMartino didn't want to be around you  
13 anymore?

14 MS. MAYER: Objection.

15 THE COURT: Sustained.

16 Q Why weren't you around Chickie DeMartino every day?

17 A It's not he didn't want to be around. We just shot  
18 Joe. Joe lived and there is going to be some -- FBI is  
19 going to be doing their investigation, why are you going  
20 -- you just lay low. You know something is going to  
21 happen.

22 Q Did you continue to see him?

23 A Only when we were called on we would meet but to be  
24 together every day, no, things were hot.

25 Q What do you mean when you were called on?

Floridia - Cross/Kedia

1 A When he wanted to talk to me, he would call me and  
2 then I would meet him wherever he was, the street, the  
3 collision shop, wherever he was me and him would hookup.

4 Q Meaning when you were called by him?

5 A Yes. Or I called him. Either way. If I wanted to  
6 talk to him, I would call him or if I needed to see him,  
7 he would call me, vice versa.

8 Q Did you continue committing crimes with him?

9 A No. No. I wasn't committing -- I was -- well,  
10 before the Joe shooting, the only thing I was doing was  
11 robbing for his house, I didn't have no loan-sharking  
12 business, I was actually working in the union. I was  
13 doing construction. No. Especially after Joe's shooting,  
14 no. I don't remember. No.

15 Q Now, even before Joe's shooting you are saying the  
16 only thing criminal that you were doing was robbing things  
17 for Chickie DeMartino's home?

18 A And probably in the credit cards, around the same  
19 time.

20 Q The credit cards being with Sammy the Elder and  
21 Chickie and those people and Rob and Nory?

22 A Can you repeat that?

23 Q The credit card fraud being with those four people I  
24 just named?

25 A Yes.

2448

Floridia - Cross/Kedia

2449

1 Q Anything else?

2 A Not that I can remember now, no.

3 Q And after the shooting?

4 A I could have been still doing the credit card things  
5 but I wasn't loan-sharking. I didn't have any of that  
6 going. I was basically laying low because, you know, of  
7 what we did to Joe. I knew something was going to start  
8 coming down.

9 Q Well, you certainly knew because the police showed up  
10 at your house that night, right?

11 A They didn't arrest me so I knew that NYPD didn't have  
12 nothing. I knew the FBI was going -- Joe lived. Joe is  
13 going to identify us. You know what I mean? Chickie shot  
14 him and I was the driver. He knows us.

15 Q And the police in fact showed up at your house that  
16 night, right?

17 A Yes.

18 Q Because you had used your wife's van in the shooting?

19 A Correct.

20 Q Now, Mr. Floridia, let's talk about your tracking Joe  
21 Campanella.

22 You have testified that in fact it started in  
23 April or May of 2001, right?

24 A Yes.

25 Q This is a period of time you are close now with

Floridia - Cross/Kedia

2450

1 Chickie DeMartino, right?

2 A Close but other than him threatening my life and  
3 being afraid, I feel like I'm obligated to him. Yeah, I'm  
4 pretty close. But he is keeping me close for a reason,  
5 because when I left, you know, he was probably thinking  
6 that I was going to cooperate so he is keeping me around  
7 for a reason also.

8 Q Well, Chickie DeMartino was certainly someone you  
9 would describe as a pretty scary guy, right?

10 A Definitely.

11 Q Pretty fierce, right?

12 A Yeah.

13 Q In fact, I think you said he -- that you were told  
14 that he was the one that did the killings in the family,  
15 right?

16 A He did in the work in the family, yes.

17 Q As far as you knew he would have killed you?

18 A In a heartbeat.

19 Q Without evenning blinking an eye?

20 A I was nothing.

21 Q When you say that he was afraid that you were going  
22 to cooperate, he would have just killed you, right?

23 MS. MAYER: Objection.

24 THE COURT: Sustained.

25 Q Well, Mr. Floridia, what is it that makes you say

Floridia - Cross/Kedia

2451

1       that he was afraid you were going to cooperate?

2       A      Because I took off after he threatened to kill me so  
3           from that alone but I mean, I think there was more to it  
4           than when we asked me to kill Joe not only for the money,  
5           if Joe would have indeed died, so would have I.

6       Q      So would you have?

7       A      Oh, yeah, definitely.

8       Q      Meaning he would have shot Joe, killed him and then  
9           reached over, you were driving the van and just pulled  
10          that trigger too?

11                 MS. MAYER: Objection.

12                 THE COURT: Sustained.

13       Q      What do you mean so would you have?

14       A      I think eventually if he would have killed Joe, I was  
15          the only link that probably would have put him at the  
16          shooting and yeah, I believe in my heart he would have  
17          killed me.

18       Q      Mr. Floridia --

19       A      Because I wasn't earning any money anymore. I  
20          actually became a problem and now he got me involved in  
21          this shooting so I really believe that. I don't know if  
22          he would have but that's my judgment. That's my opinion.

23       Q      Mr. Floridia, you certainly became not only a link  
24          but the link to the shooting, right?

25                 MS. MAYER: Objection.

Floridia - Cross/Kedia

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1                   THE COURT: Sustained.

2       Q    Your wife's van is what was identified as the vehicle  
3                   that was being driven from which Joseph Campanella was  
4                   shot, right?

5                   MS. MAYER: Objection.

6                   THE COURT: Overruled. If he knows.

7       A    Well, can you repeat that?

8       Q    Yes.

9                   Your wife's van is the vehicle that was being  
10                  driven on the 16th of July 2001 on the day that Joseph  
11                  Campanella was shot?

12      A    Of course.

13      Q    That was the vehicle from which he was shot, right?

14      A    Yes.

15      Q    You were driving, right?

16      A    Yes.

17      Q    And in fact, you know that someone actually took down  
18                  your license plate, right?

19      A    Well, I have learned that, yes, yes.

20      Q    Where did you learn that?

21      A    From the trial.

22      Q    When you say "from the trial," you mean your trial?

23      A    My trial.

24      Q    And there was a person that came in and testified  
25                  against you?

Floridia - Cross/Kedia

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1 A The guy who wrote down my license plate took the  
2 stand and testified that he wrote down my license plate.

3 Q And gave it to the police, right?

4 A I don't know who he gave it to but obviously he gave  
5 it to -- I think maybe the FBI.

6 Q Law enforcement of some sort?

7 A Yes. I would believe so.

8 Q And this person who took down your license plate  
9 actually testified that he took it down in the early  
10 morning hours of the 16th of July, right?

11 MS. MAYER: Objection.

12 THE COURT: Sustained.

13 Q When did this person get your license plate number?

14 MS. MAYER: Objection.

15 THE COURT: Please approach.

16 (Continued on the next page.)

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Sidebar

2454

1 (Sidebar.)

2 THE COURT: Your objection is?

3 MS. MAYER: If we were going to go into the  
4 whole trial testimony, it's not proper but I actually  
5 don't object if -- they have made an issue out of the  
6 license plate but I don't want to get into this whole  
7 relitigating the whole trial. It's not proper to ask him  
8 all these questions about the trial.

9 MS. KEDIA: I don't plan to relitigate his  
10 trial. I certainly plan to get into his trial to the  
11 extent he picked up certain information from his trial and  
12 tailors his testimony based on things he learns at his  
13 trial himself.

14 THE COURT: Such as?

15 MS. KEDIA: Such as this conversation that Mr.  
16 DeMartino was supposed to have about we missed after the  
17 shooting. He specifically draws the exact conversation,  
18 the prosecutor uses in his summation. The prosecutors  
19 says you don't have to have a recording to know what  
20 happened. He said we missed. Tell him we missed. And  
21 now Mr. Floridia comes in and testifies to exactly that.

22 THE COURT: Maybe that is what was actually  
23 said. I don't know how he would know but so what?

24 MS. KEDIA: Certainly the fact that a witness  
25 who is convicted at trial learns this information during

Sidebar

2455

1 his trial and then tailors his testimony based on the  
2 information that he learns at his trial is something that  
3 should be before the jury.

4 THE COURT: He didn't testify at trial  
5 previously.

6 MS. KEDIA: No. This is the trial that he was  
7 sitting at and he was convicted at.

8 THE COURT: He heard the testimony and he  
9 responds to the rhetoric.

10 MS. KEDIA: Like he heard Mr. Campanella say, as  
11 he was asked on direct examination, say Mr. DeMartino was  
12 the driver and he was the shooter. Those are things that  
13 were brought out. I'm going to bring out other things  
14 that were said during his trial that he heard. I don't  
15 plan to go into extreme detail but a few specific things.

16 MS. MAYER: To draw a distinction, the reason  
17 I'm allowed to elicit that on direct, they have already  
18 cross-examined Mr. Campanella and attacked his  
19 credibility. That's proper due to a prior inconsistent  
20 statement. That's why I'm allowed to do it as to Mr.  
21 Campanella.

22 THE COURT: Let's get back to the issue at hand  
23 here. You are attempting to elicit from this witness the  
24 fact that he was linked to the shooting because he used  
25 his wife's vehicle. That's out there. He knew he was

Sidebar

2456

1 linked to the shooting because he heard it at a trial,  
2 someone wrote his number down. That's it. Move on.

3 MS. KEDIA: The prosecutor objected to this last  
4 question which I want to be able to ask him.

5 THE COURT: It's five after 4:00. You've got an  
6 hour with this witness. Let's get to the point.

7 MS. KEDIA: I will get to the point, Judge.

8 THE COURT: Thank you.

9 (Sidebar concluded.)

10 (Continued on the next page.)

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Floridia - Cross/Kedia

2457

1 (In open court.)

2 THE COURT: The objection to this question is  
3 withdrawn.

4 BY MS. KEDIA: (cont'd)

5 MS. KEDIA: Can I have the question read back to  
6 the witness?

7 THE COURT: Go ahead.

8 (The record was read back.)

9 A I know it was that day. I don't know exactly what  
10 time it was.

11 Q Well, you certainly heard him testify at your trial,  
12 right?

13 A Yeah. I know he took the stand but I don't remember  
14 what time he said.

15 Q Well, Mr. Floridia, you were sitting as a defendant  
16 at a trial, right?

17 A Yes.

18 Q And in fact, you were actually participating in your  
19 trial and then you were writing notes to your lawyer,  
20 right?

21 MS. MAYER: Objection.

22 THE COURT: Sustained.

23 Q Had you read Mr. Campanella's 302s prior to your  
24 trial?

25 MS. MAYER: Objection.

Floridia - Cross/Kedia

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1 THE COURT: Sustained.

2 Q Mr. Floridia, who was this person that took down your  
3 license plate?

4 A Who is he?

5 Q Yes.

6 A I don't know. He was a young kid. He looked Puerto  
7 Rican. He had tattoos all over his neck. I don't know  
8 who he was but that's what he looked like.

9 Q No one you had ever seen before?

10 A No. Not that I know of. No.

11 Q Why did he take your license plate?

12 MS. MAYER: Objection.

13 THE COURT: Sustained.

14 Q Do you know if someone saw you participating in that  
15 shooting?

16 A Can you repeat that?

17 Q Did a witness observe you in that van?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 Q Did anyone see Mr. DeMartino shooting Joseph  
21 Campanella besides Joseph Campanella?

22 MS. MAYER: Objection.

23 THE COURT: Sustained.

24 Q Mr. Floridia, on the 16th of July of 2001, you  
25 testified that Mr. DeMartino came to meet you, is that

Floridia - Cross/Kedia

2459

1 right?

2 A Yes.

3 Q And prior to that time, you had been tracking Mr.  
4 Campanella for a period of time, is that right?

5 A Yes.

6 Q A period of a few weeks?

7 A Yes.

8 Q And the first time that you discussed killing Joseph  
9 Campanella, how did that come about?

10 A The first time?

11 Q Yes.

12 A Well, we were working on his house in Queens.

13 Q "We," meaning you and Chickie DeMartino?

14 A Me and Chickie, yes.

15 Q You were working on Chickie's house in Queens?

16 A Correct.

17 Q And you had a discussion in which he told you he  
18 wanted to kill Joe Campanella?

19 A He asked me but, you know, asking is just like  
20 telling, you know, it's not like he wanted an answer from  
21 me. You know, once told me, he let me in, I knew I was  
22 in. You know what I mean? That's it. I'm involved. So  
23 he --

24 Q What did he say to you?

25 A He told me that he wants to kill Joe and that the

Floridia - Cross/Kedia

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1 money that I owe the family would go away.

2 Q Now, when you say the money that you owe the family,  
3 this is the money that you are talking about that you  
4 borrowed from Chickie DeMartino?

5 A That's the loan-sharking money that was out on the  
6 street.

7 Q That's what you are talking about?

8 A That's correct.

9 Q There is no additional money anywhere else that you  
10 are talking about?

11 A No.

12 Q This is the same money that you owed Chickie  
13 DeMartino when you ran away in 2000, right?

14 A Correct.

15 Q When you came back -- how long of a period of time  
16 was it that you ran away?

17 A I left for four months, I believe.

18 Q Four months?

19 A Yes.

20 Q You actually went with another person, right?

21 A Yes.

22 Q Who was that?

23 A It was a girl.

24 Q Who is it?

25 A A girl Christy.

Floridia - Cross/Kedia

2461

1 Q Who is Christy?

2 A She was a friend of mine.

3 Q Your girlfriend?

4 A No; she was a friend of mine.

5 Q A friend of yours?

6 A She was a girl but she was a friend of mine.

7 Q Where did you know Christy from?

8 A I met her at a bar.

9 Q At a bar in Brooklyn?

10 A No, in Manhattan.

11 Q When did you meet Christy?

12 A Probably in the year 2000, early 2000.

13 Q Now, Mr. Floridia, when you left -- this woman lived

14 in New York?

15 A She lives in Long Island.

16 Q She went with you to New Hampshire?

17 A No. She was moving. She was moving. She lived in

18 Oyster Bay, Long Island and her father owned a place in

19 New Hampshire and she was moving up there and I went with

20 her.

21 Q And she continue to live there?

22 A Yes.

23 Q And you came back?

24 A Yes.

25 Q When you came back, you said you went to Chickie

Floridia - Cross/Kedia

2462

1 DeMartino's house, right?

2 A Yes.

3 Q And you went alone?

4 A Correct.

5 Q And weren't you afraid that Chickie DeMartino was  
6 going to kill you?

7 A Well, like I said, while I was up in New Hampshire, I  
8 talked to Tony the Arab and he basically told me that, you  
9 know, listen, he wants to talk, meaning Chickie, he just  
10 wants to know you are okay and everything is all right.  
11 Basically to come back. But he didn't tell me when to  
12 come back because I wasn't going to come back when he told  
13 me. I was going to come back when I thought it was okay  
14 to come back. So I basically, you know, came back and  
15 found Chickie at his house alone because I knew it was  
16 better to talk to him alone.

17 And basically when I talked, he was like -- he  
18 was just shaking his head and telling me I didn't  
19 understand, you are my friend, why did you leave like  
20 that. I said: Why? What do you mean why did I leave  
21 like that? You told me if I didn't give you the money,  
22 you would kill me. What did you want me to do? He said  
23 we can always work it out. Basically that was the  
24 conversation.

25 From there on, he said don't worry about it. Go

Floridia - Cross/Kedia

1 to work. He actually -- we started -- I started working  
2 construction. I started helping him on the house. And  
3 then he winded up getting me into the carpenter's union.  
4 And I started going to work on and off and just making  
5 money, you know, I went back with my wife because me and  
6 my wife split up, all the pressure. The poor girl, how  
7 could she survive all of this. I tried to make amends  
8 again with my family.

9 Q Mr. Floridia, does your wife know you went with  
10 another woman to New Hampshire?

11 A Yes.

12 Q You told her that when you got back?

13 A She knows.

14 Q She learned when?

15 MS. MAYER: Objection.

16 THE COURT: Sustained.

17 Q How does she know?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 Q Mr. Floridia, how long had you been seeing that woman  
21 Christy?

22 MS. MAYER: Objection.

23 THE COURT: Sustained.

24 Q Mr. Floridia, when you got back, this is what, in  
25 early 2001, March of 2001?

2463

Floridia - Cross/Kedia

2464

1 A I believe it was in January.

2 Q In January?

3 A January, yeah.

4 Q You say you went to Chickie DeMartino's house and  
5 worked things out with him, right?

6 A Correct.

7 Q Then he asked you to kill Joseph Campanella?

8 A Well, he didn't tell me as soon as I came back. We  
9 are working together. We are hanging out again. We are  
10 getting real friendly again. But that's his way of  
11 keeping me close to him so he knew he was going to ask me  
12 to kill Joe with him. That's why he kept me close.

13 Q Mr. Floridia, when you said you are working together,  
14 where are you working together?

15 A On his house.

16 Q On his house?

17 A Correct.

18 Q Meaning building his house?

19 A Yes.

20 Q You are hanging out together meaning also you are  
21 helping him build his house, is that what that means?

22 A Yes.

23 Q So basically you are doing what he wants you to do?

24 A Like I have always done, yeah.

25 Q And Mr. DeMartino then tells you or asks you to help

Floridia - Cross/Kedia

2465

1 kill Joseph Campanella?

2 A Correct.

3 Q And you didn't have even a choice in the matter at  
4 that point in time, right?

5 A No.

6 Q Once he told you that that was his intention, you had  
7 to go along with it, right?

8 A Yeah. Of course. I mean, I could have went to the  
9 FBI but I wasn't -- you got your family around. It's a  
10 totally different situation when you are out there.  
11 Everybody is living in the neighborhood. It's totally  
12 different.

13 (Continued on the next page.)

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Floridia - Cross/Ms. Kedia

2466

1       CROSS-EXAMINATION (Continued)

2       BY MS. KEDIA:

3       Q.     This is a situation that occurs in April or so, in  
4           2001?

5       A.     Yes.

6       Q.     And from then on, your job is to track Joseph  
7           Campanella. Right?

8       A.     Yeah.

9       Q.     Now you testified about, about Chickie DeMartino  
10          during that time period going to get a new cell phone.  
11          Right?

12       A.     Yes.

13       Q.     And you went with him to get that cell phone. Right?

14       A.     Correct.

15       Q.     And the reason is that he wanted to get a phone that  
16          wasn't listed to him. Right?

17       A.     Right.

18       Q.     You had a phone at the time, a cell phone. Right?

19       A.     Yes.

20       Q.     And it was in your wife's name. Right?

21       A.     Yes.

22       Q.     So did you say to him, Well, you know what, if we're  
23          going to participate in this conspiracy, if we're going to  
24          kill Campanella, maybe I should get a prepaid phone too?

25       A.     No.

Floridia - Cross/Ms. Kedia

2467

1 Q. Did he suggest that to you either?

2 A. No. But that's why I believe he would have killed me  
3 afterwards. When I think about it now.

4 Q. Well Mr. Floridia. When you say that is why you  
5 believe he would have killed you. The police actually  
6 showed up at your apartment on the night of July 17, 2001?

7 MS. MAYER: Objection, asked and answered.

8 THE COURT: Sustained.

9 BY MS. KEDIA:

10 Q. You went to the precinct that night. Right?

11 MS. MAYER: Objection.

12 MS. KEDIA: I haven't asked that question, your  
13 Honor. On direct examination --

14 THE COURT: I understand your argument. Move  
15 along. What happened that night?

16 A. I got questioned that night, questioned by the police  
17 officers then. Yes.

18 BY MS. KEDIA:

19 Q. Now within 9 days the FBI came and seized your van.  
20 Right?

21 A. Yeah. I know they seized it. I don't know how long  
22 after. Yes, they did seize it.

23 Q. Well within a few days. Right?

24 A. You want to show me? I don't know. I don't have the  
25 paper. Maybe -- you said 9 days. It could be 9 days.

Floridia - Cross/Ms. Kedia

2468

1 Yes.

2 Q. I'll get you a document, Mr. Floridia.

3 You don't have any recollection sitting there on  
4 the witness stand when it was?

5 A. I remember the FBI taking my van. I just don't  
6 remember exactly when.

7 Q. When the police came to your house, did you tell  
8 Chickie DeMartino about it?

9 A. The NYPD?

10 Q. Yes.

11 When you went down to the precinct that day.

12 Did you tell Vinnie DeMartino about it?

13 A. Well yes. After I called Chickie and let him know  
14 from a pay phone.

15 Q. From a pay phone, meaning that night?

16 A. That night. Yes.

17 Q. And when your van got seized, did you tell Chickie  
18 DeMartino about that?

19 A. Yes. Yes, definitely told him about it.

20 Q. I'm going to show you what I'm marking as Defendant's  
21 Persico AS for identification.

22 Would you take a look at this document and see  
23 if it refreshes your recollection that your van was  
24 actually seized by the FBI July 25th of 2001?

25 A. Yes. Yes, 9 days.

Floridia - Cross/Ms. Kedia

2469

1 Q. Nine days after the shooting. Right?

2 A. Yes.

3 Q. And this is something you also told Chickie DeMartino  
4 occurred. Right?

5 A. Yes.

6 Q. And instead of killing you, he asked you again to go  
7 try to kill Joseph Campanella. Is that right?

8 MS. MAYER: Objection. I'm going to object.

9 THE COURT: Sustained.

10 BY MS. KEDIA:

11 Q. Well Mr. Floridia, you testified on direct  
12 examination that two weeks after the shooting you met with  
13 Mr. DeMartino again. Right?

14 A. I said about two weeks. Yes.

15 Q. And certainly this is after you were questioned by  
16 the police already and reported it to Mr. DeMartino.  
17 Right?

18 A. Yes.

19 Q. And certainly when you met with Mr. DeMartino next,  
20 he hadn't come and tried to kill you. Right?

21 A. I think he had other things on his mind, that Joe  
22 didn't die. And he just came, you know.

23 Q. Mr. Floridia, did Chickie DeMartino come to see you  
24 during that period?

25 MS. MAYER: Objection.

Floridia - Cross/Ms. Kedia

2470

1                   THE COURT: I'm sorry. I didn't hear what you  
2 said.

3 BY MS. KEDIA:

4 Q. Did Chickie DeMartino come and try to kill you during  
5 that period of time?

6                   MS. MAYER: Objection.

7                   THE COURT: Sustained.

8 BY MS. KEDIA:

9 Q. Mr. Floridia, two weeks approximately after the  
10 shooting, you are handed a piece of paper. Is that right?

11 A. Correct.

12 Q. And you are asked to go try to shoot Joseph  
13 Campanella again. Is that right?

14 A. He said if I get a shot, to take it at Joe, because  
15 he seen. He seen us.

16 Q. Did you perceive that to be an order or a request?

17 A. I guess it was a desperation, I think. Not an order  
18 or a request.

19                   I mean basically he is telling me, Listen, we're  
20 going to go down for this if Joe don't die.

21                   But now he is throwing it on my plate. I didn't  
22 shoot him from the beginning. So why would I shoot him  
23 now?

24 Q. Mr. Floridia, Chickie DeMartino, where was he during  
25 this time?

Floridia - Cross/Ms. Kedia

2471

1 MS. MAYER: Can we get a time?

2 BY MS. KEDIA:

3 Q. After the shooting of Joseph Campanella, during this  
4 two weeks before he asked you to go take another shot?

5 A. Well, what happens is, he is around. But there is  
6 heat on us, you know the FBI. You assume that they're  
7 around, because Joe knows who shot him.

8 Q. Well there is heat on you in particular. Right?

9 A. Right now there is heat on me. They came and took  
10 the van. Yes.

11 Q. Was it Chickie DeMartino who said take another shot  
12 at Joseph Campanella, to your knowledge?

13 MS. MAYER: Objection.

14 THE COURT: Sustained.

15 BY MS. KEDIA:

16 Q. Did you have a conversation with Chickie DeMartino  
17 about him going to do anything?

18 A. No, not -- the only conversation about taking a shot  
19 was when he gave me the note. If I get a chance, take a  
20 shot at Joe.

21 Q. Now when he gave you the note, he gave you some  
22 street corner. Right?

23 A. He gave me a block, a street name, and he gave me  
24 Woodrow.

25 Q. And this was a location in Staten Island. Right?

Floridia - Cross/Ms. Kedia

2472

1 A. Yes.

2 Q. And in fact it was a location very, very far away  
3 from Joseph Campanella's house. Right?

4 A. I didn't know. I didn't, I didn't check on it.

5 Q. Well, you lived in Staten Island. Right?

6 A. Yes.

7 Q. Did you know where the location was?

8 A. Well, I don't know, I don't know where Joe lives.

9 Q. When you were tracking Joe for all those weeks you  
10 never learned where he lived?

11 A. Well, I knew Joe lived in Staten Island, but I only  
12 tracked -- I never tracked Joe in Staten Island, because  
13 when -- if you are following somebody in Staten Island,  
14 they're going to know. It is just like Long Island. The  
15 streets are very similar. The area is very similar.

16 In Brooklyn, it's a little different, because  
17 you got, you know, many corners, many street lights. You  
18 can turn. You know, you can hide, you can stay back a  
19 couple of -- there is more traffic involved. It's more  
20 dense.

21 Q. Mr. Floridia, you testified that you started tracking  
22 Mr. Campanella a few weeks before the shooting. Right?

23 A. Yeah, probably. Yeah -- yes.

24 Q. How is it that you learned where to start tracking  
25 Mr. Campanella?

Floridia - Cross/Ms. Kedia

2473

1 A. Well Chickie had given me a starting point.

2 Q. What was the starting point?

3 A. I think it was the medical office.

4 Q. What medical office?

5 A. The one on 17th Avenue.

6 Q. What is the medical office on 17th Avenue?

7 A. That is the one where Joe has a medical office, where  
8 he was conducting his, you know, where he was conducting  
9 his business. I guess. I don't know. That is where he  
10 was.

11 Q. This is the same medical office that you're talking  
12 about on 17th Avenue where you actually went on the 13th  
13 of July?

14 A. Yes, that's right.

15 Q. Yes?

16 A. Yes.

17 Q. Do you recall testifying previously that Chickie gave  
18 you a different starting point for Joe Campanella?

19 A. I don't know. It could be.

20 Q. If I can direct your attention to page 472 of 3500 GF  
21 18. Start at the bottom of page 471.

22 Do you recall testifying at a prior proceeding  
23 and being asked this question and giving this answer :

24 "Question: Who if anyone gave you information  
25 about where to begin following Joseph Campanella?

Floridia - Cross/Ms. Kedia

2474

1               "Answer: It was Chickie.

2               "Question: What did he tell you?

3               "Answer: He pretty much gave me a starting  
4 point of where Joe would be. He said a medical office on  
5 Kimball Street in Brooklyn.

6               "Question: Did you use that information to  
7 start tracking Joe?

8               "Answer: Yes. And from there I went and in  
9 fact I picked him up one day. I just started following  
10 him around. I started getting a routine down."

11              Do you remember being asked those questions  
12 answer giving those answers.

13 A. Yeah. I made a mistake.

14 Q. You made a mistake.

15              Kimball Street is not a place where Joseph  
16 Campanella could be found?

17 A. Oh, no, it was. But I confused the medical office  
18 where I gave the guy the beating for Chickie's daughter.  
19 That office was on Kimball Street.

20 Q. And when did you realize that you had made this  
21 mistake; when you previously testified before a jury?

22 MS. MAYER: Objection.

23 THE COURT: Sustained.

24 BY MS. KEDIA:

25 Q. When did you realize you made this mistake?

Floridia - Cross/Ms. Kedia

2475

1 MS. MAYER: Objection.

2 THE COURT: Sustained.

3 BY MS. KEDIA:

4 Q. Mr. Floridia, do you know the difference between a  
5 mistake and a lie?

6 MS. MAYER: Objection.

7 THE COURT: Sustained.

8 BY MS. KEDIA:

9 Q. Mr. Floridia, the medical office on Kimball Street,  
10 that's a medical office where a doctor works. Right? A  
11 doctor by the name of Volpicella?

12 A. I didn't know his name. But that is the medical  
13 office where Chickie's daughter had the problem.

14 Q. And that's the medical office where Chickie's  
15 daughter works. Right?

16 A. Correct.

17 Q. And in fact you said that you went to that medical  
18 office with two guys. Right?

19 A. Correct.

20 Q. And these two guys beat up the doctor. Is that  
21 right?

22 A. Yes.

23 Q. On Chickie's behalf?

24 A. Correct.

25 Q. It was something else though that Chickie told you to

Floridia - Cross/Ms. Kedia

2476

1 do?

2 A. Yes.

3 Q. And it was a personal situation with his daughter.

4 Right?

5 A. Yes.

6 Q. Now who were the two guys that you took with you?

7 A. I believe it was Nory and Rob.

8 Q. And did you actually administer the beating, or did  
9 they?

10 A. No, they did it.

11 Q. And why did they agree to do it?

12 MS. MAYER: Objection.

13 THE COURT: Sustained.

14 BY MS. KEDIA:

15 Q. Well, did you order them to do it?

16 A. Well, basically they were around because they were  
17 making money. So yeah, they wanted to.

18 I asked, Them do you have a problem with it?

19 They didn't have a problem.

20 Q. When you say, *they were around, because they were*  
*making money.* What does that mean?

22 A. Well, through the credit card frauds and everything.  
23 So these kids are around the barbershop. I mean they were  
24 around.

25 Q. They were around you?

Floridia - Cross/Ms. Kedia

2477

1 A. Yes.

2 Q. They weren't associated with the Colombo family?

3 A. Well, they worked on Chickie's house also. Yeah.

4 Q. Something else that you did that was personal for  
5 Chickie?

6 A. Yes. On my behalf they would go. I would leave them  
7 there too.

8 Q. Meaning you asked them to go there. Right?

9 A. Yes. Well, I would bring -- they didn't drive, so I  
10 would bring them there.

11 Q. These are people again that Chickie knew through you?

12 A. Yes.

13 Q. Certainly not people who ever went to the bocce club.  
14 Right?

15 A. Oh, no, no.

16 Q. They weren't involved with any of those people.

17 Right?

18 A. No. Well Chickie knew that they were with me.

19 Q. Chickie knew that these guys were with you. That is  
20 what you're saying?

21 A. Yeah. I would bring them to his house to work. And  
22 when Carmine or John would have, you know like windows  
23 that came in, that they would call Chickie. I would take  
24 these kids with me too. These kids were there also.

25 Q. Now Mr. Floridia, how long did it take you to learn

Floridia - Cross/Ms. Kedia

2478

1 where Joe could be found?

2 A. How long? Could you repeat that?

3 Q. How long did it take you to learn where Joe  
4 Campanella could be found, when you were tracking him?

5 A. Well, I started at the medical place on 17th Avenue.  
6 And then I just, you know, gradually followed him around,  
7 and made sure he didn't see me. I mean I tried to stay  
8 back and keep an eye on him, and try to follow him.

9           But sometimes if I would get too far away, I  
10 would lose him. So I mean, that's when I started  
11 following him and learning that, you know, where he went  
12 from his office.

13           And then he would go to the gym in the morning.  
14 I mean he was -- everything time I followed him, I  
15 wouldn't get any information. He would just, you know, be  
16 driving around the neighborhood going to stores. You  
17 know, things like that.

18 Q. Meaning he didn't have a routine?

19 A. Sometimes. No it is not like, you know he had a  
20 regimen. You know, he would be here at one. He would be  
21 here at 1:30. You know it wasn't like that though.

22 Q. Do you recall testifying in a prior proceeding that  
23 it actually took you a few weeks just to get Joe  
24 Campanella's routine down?

25 A. It took me a while. Yeah.

Floridia - Cross/Ms. Kedia

2479

1 Q. So he had a routine then?

2 A. Well, he had a, you know -- the routine was, you  
3 know, basic starting points. Like I know he had to go to  
4 his medical office, because that's where he conducted his  
5 business.

6 We know he went to the gym because that's where  
7 Joe did everything, he worked out. And then from the gym  
8 he would go to the beach, because he liked to tan up. So  
9 he would get a suntan.

10 So you know, we learned the things that he did  
11 every day, you know, by following him each time.

12 Q. When you say *we*, who followed him each time?

13 A. Well, me.

14 Q. And you learned for example about the gym by  
15 following him. Is that right?

16 A. Correct.

17 Q. So Jackie DeRoss who you say was involved with the  
18 conspiracy, never told you that you could find Joseph  
19 Campanella at this gym for the last several years?

20 A. Well, no.

21 Q. Michael Spataro never told you; I know exactly where  
22 Joseph Campanella lives. Here is his house, and home  
23 address on Staten Island?

24 A. Didn't give it to me directly. No.

25 Q. Well, you say he didn't give it to you directly. You

Floridia - Cross/Ms. Kedia

2480

1 never had Joseph Campanella's home address in Staten  
2 Island. Right?

3 A. Well, the piece of paper that you know Chickie gave  
4 me, the vicinity where Joe lived, that's a paper that  
5 Michael gave him.

6 Q. Well, Mr. Floridia, you're talking about a piece of  
7 paper that said Rossville Road, Rossville and Woodrow?

8 A. Yes, Woodrow and Rossville.

9 Q. And that was some nine or ten miles away from where  
10 Joseph Campanella lived. Right?

11 A. I don't know.

12 Q. You don't know even to this day?

13 A. I don't know where Joe lives. No. I don't know.

14 Q. So certainly Michael Spataro never told you were Joe  
15 Campanella live. Right?

16 MS. MAYER: Objection.

17 THE COURT: Sustained.

18 BY MS. KEDIA:

19 Q. So did any of the people that you say were involved  
20 in this conspiracy, tell you where Joe Campanella lived?

21 MS. MAYER: Objection.

22 THE COURT: Sustained.

23 BY MS. KEDIA:

24 Q. Now, Mr. Floridia, how often is it that you followed  
25 Joe Campanella during this period of time?

Floridia - Cross/Ms. Kedia

2481

1 A. It was on and off when he was at where he was  
2 supposed to be. It wasn't every day. I mean, you know  
3 sometimes once a week, twice a week. You know I wanted to  
4 keep my distance because Joe -- I know Joe, Joe knows me?

5 Q. How many times would you say, in total, you were  
6 following him around?

7 A. I followed him quite a few times. I would say  
8 probably more -- about ten -- between ten to 15 times.

9 Q. And were you alone on these occasions?

10 A. One time, no.

11 Q. One time you were with whom?

12 A. I had met with John Cerbone, and I was -- and I seen  
13 Joe, and I started following Joe.

14 Q. Where were you -- where did you see Joe?

15 A. It was in Brooklyn somewhere. I think it was off Bay  
16 Parkway.

17 Q. Meaning one of the locations where you knew he could  
18 be found or --

19 A. No, random. No, it was just random. Me and John  
20 were together, and all of a sudden I see Joe. You know --  
21 you know, because it's the neighborhood. So, you know,  
22 basically a lot of people are in the same neighborhood.  
23 And I just seen Joe pass by, and I just basically just  
24 start tailing him.

25 Q. And where did he go?

Floridia - Cross/Ms. Kedia

2482

1 A. I don't even remember. I just, you know, lost him;  
2 then -- you know, but I just -- it was an automatic thing,  
3 I, you know started, following him.

4 Q. When was this?

5 A. Well, before the shooting.

6 Q. When before the shooting?

7 A. It could have been a few weeks before the shooting.  
8 I can't give you an exact date.

9 Q. Was John Cerbone someone who was involved in this  
10 conspiracy with you?

11 A. No.

12 Q. But he was in the car with you when you followed  
13 around Joe Campanella?

14 A. Well, on that instance, yes. That day, yes. But he  
15 didn't know what was going on.

16 Q. But he knew Joe Campanella. Right?

17 A. Well, he knew him but I don't know if he -- he didn't  
18 get anything from me. I didn't tell him anything.

19 Q. Where did he think you were going?

20 MS. MAYER: Objection.

21 THE COURT: Sustained.

22 BY MS. KEDIA:

23 Q. Did you have a plan as to where you were going?

24 A. No, we were just driving around. It could have been  
25 about money. You know, we always got together about

Floridia - Cross/Ms. Kedia

2483

1 something.

2 Q. What was Joe driving?

3 A. He had a white Mercedes.

4 Q. And that is what he was driving on that day as well?

5 A. Yes.

6 Q. How did John Cerbone see Mr. Campanella, on any  
7 number of occasions?

8 MS. MAYER: Objection.

9 THE COURT: Sustained.

10 BY MS. KEDIA:

11 Q. Had you seen Mr. Campanella's Mercedes at the Bocce  
12 Club?

13 A. Joe didn't have Mercedes back then, from what I  
14 remember.

15 Q. He didn't have a Mercedes back when you used to go to  
16 the Bocce Club before Billy was killed?

17 A. Yeah.

18 Q. What about after Billy?

19 A. Well, that's when -- yeah, after Billy disappeared,  
20 yes. That's when he got the Mercedes. When he got the  
21 medical office, and all of that started happening for him.

22 Q. Had you seen the Mercedes at the Bocce Club?

23 A. No, I don't think so. No, I don't remember having  
24 seen the Mercedes there.

25 Q. How is it that you learned that this is what Joe

Floridia - Cross/Ms. Kedia

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1 Campanella drove?

2 A. I think Chickie -- somebody told me about a Mercedes.

3 Q. Meaning when you were starting to track him?

4 A. Yes.

5 Q. Was it Chickie?

6 A. I think it was Chickie, yes.

7 Q. Now, when you -- when you followed Mr. Campanella

8 around, what did you drive?

9 A. I drove different cars because Joe knew -- I knew

10 Joe. I drove either my father's, I would take my

11 father's, I would trade cars with my father. I would

12 trade cars with my friends, you know. They wouldn't know

13 what I was using it for, but I always traded cars because

14 I didn't want Joe to recognize me.

15 Q. So you would just tell people, *I would like to borrow*

16 *your car today.* Is that what you mean?

17 A. Yeah. If it was there, I would take it, yes.

18 Q. And the reason is that you didn't want Joe Campanella

19 to know --

20 A. Yes.

21 Q. -- that you were following him?

22 A. Right.

23 Q. Now, on the 13th of July, you actually went by his

24 medical place. Right?

25 A. Yeah.

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1 Q. You kind of stopped in front of his office even.

2 Right?

3 A. Yes.

4 Q. And you were driving this green mini-van. Right?

5 A. Correct.

6 Q. And Mr. Campanella's, the door was open. Right?

7 A. Yes.

8 Q. And this was the green mini-van that is registered to  
9 your wife. Right?

10 A. Correct.

11 Q. And Mr. Campanella actually saw you on that day.

12 Right?

13 MS. MAYER: Objection.

14 THE COURT: Sustained.

15 BY MS. KEDIA:

16 Q. Well, you testified that on the 15th of July, Joseph  
17 Campanella saw you in the van when he was shot. Right?

18 A. Yeah, but you're talking about the 13th.

19 MS. MAYER: Objection.

20 THE COURT: Sustained.

21 BY MS. KEDIA:

22 Q. I know I'm not asking about the 16th, and then I'm  
23 asking about the 13th.

24 THE COURT: What date are you asking about now?

25 MS. KEDIA: The 13th.

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1 BY MS. KEDIA:

2 Q. Did Mr. Campanella see you on that day?

3 A. I don't know. I don't think so.

4 Q. You don't think so?

5 A. No.

6 Q. Did you see him peek out of his medical office?

7 A. No.

8 Q. Now, on the 13th of July, where did you find Joseph  
9 Campanella that day?

10 A. At the -- his medical place.

11 Q. At his medical place?

12 A. I believe so.

13 Q. Well, Mr. Floridia, when you -- do you recall  
14 testifying at a prior proceeding that, in fact, you saw  
15 Joe Campanella's car by Coney Island beach?

16 A. I could have said that, yes.

17 Q. Well, Mr. Floridia, do you recall being asked this  
18 question and giving this answer, page 2523 of GF-19,  
19 starting at the bottom of 2522, line 24.

20 MS. MAYER: Your Honor, I'm going to object. If  
21 the Court could look at that page.

22 THE COURT: Come on up.

23 (The following occurred at sidebar.)

24 THE COURT: The page number again, please?

25 MS. MAYER: 2523.

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1           My objection is this, Judge. I believe the  
2 question posed to the witness was: Did you see Joseph  
3 Campanella? Where did you first see him?

4           He said by the office.

5           The question that she is asking him is: Did you  
6 see Joseph Campanella's car?

7           That is a different question.

8           MS. KEDIA: I'm asking him the car thing first.

9           I think it is going to lead to the exact same  
10 answer, whether he saw his car and whether he saw him.

11           THE COURT: Not the way you're posing the  
12 question.

13           MS. KEDIA: I'll ask the car question first.

14           MS. MAYER: Thank you, Judge.

15           (The following occurred in open court.).

16 BY MS. KEDIA:

17 Q. Mr. Floridia, you just testified a moment ago that  
18 you saw Joseph Campanella by his office that day. Right?

19 A. Correct.

20 Q. Did you see his car that day?

21 A. I don't remember.

22 Q. Do you recall testifying in a prior proceeding that,  
23 in fact, you saw his car that day?

24 A. I could have, yes.

25 Q. Do you recall being asked this question and giving

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1 this answer, line 24, page 2522.

2 "Question: I would like to direct your  
3 attention to Friday, July 13, 2001. Did you follow Joseph  
4 Campanella on that day?

5 "Answer: Yes.

6 "Question: Did you see Joseph Campanella's car  
7 that day?

8 "Answer: I spotted Joe, I think I spotted Joe's  
9 car by Coney Island beach.

10 "Question: And what kind of car did he have?

11 "Answer: He had a white Mercedes Benz."

12 Do you recall being asked these questions and  
13 giving these answers?

14 A. Yes.

15 Q. So, in fact, it is your testimony that you saw him at  
16 Coney Island beach and then followed him to his office.  
17 Is that right?

18 MS. MAYER: Objection.

19 THE COURT: Sustained.

20 BY MS. KEDIA:

21 Q. Well, Mr. Campanella (sic), did you first see him at  
22 his office or did you see him elsewhere?

23 A. You called me Mr. Campanella.

24 Q. Mr. Floridia, did you first see Mr. Campanella at his  
25 office or elsewhere?

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1 A. I could have seen him in both places. I could have  
2 seen him at the beach and followed him to the office.

3 Q. Well, Mr. Floridia, you could have done a lot of  
4 things. What did you do?

5 MS. MAYER: Objection.

6 THE COURT: Sustained.

7 BY MS. KEDIA:

8 Q. What did you did on July 13th?

9 A. Well, I can tell you that I seen Joe in his office.  
10 And I called Chickie to tell him that he was there. And  
11 Chickie told me that he was going to come.

12 I told him I was going to be -- let me think  
13 about it. His office was on 83rd and 17th, between 83rd  
14 and 84th, I believe that. And I think I was on 81st  
15 Street. That is where I told Chickie to meet me.

16 Q. Prior to seeing Joe Campanella in his office on  
17 July 13th, did you see him or his car anywhere else?

18 A. I could have tailed him at the beach, because usually  
19 it worked like this. Joe went -- from the morning, he  
20 would be at -- at the morning, he would be at the gym.  
21 From the gym, he went to the beach. From the beach, he  
22 would go to his office.

23 You know, so yes, I could have either picked him  
24 up at the -- at the beach and followed him to the office,  
25 or I could have just went straight to his office, you

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1 know, and seen him there. You know.

2 Q. So one or the other, you can't recall today?

3 A. No.

4 Q. But do you recall testifying at a prior proceeding  
5 that, in fact, you saw Joe by the gym on the 13th of July?

6 A. I could have started off seeing him at the gym, and  
7 then going to the beach, and then going to the office.

8 Yes. I could have done that.

9 Because that was his routine. Yes. That could  
10 have happened. That is the way I remember right now. I  
11 could remember, you know, when I met Chickie there, and  
12 that he was at the office. And I called him, and he came  
13 down.

14 Q. Well, Mr. Floridia, do you recall testifying at a  
15 prior proceeding and being asked these questions and  
16 giving these answers?

17 MS. MAYER: Objection, she already read this.

18 MS. KEDIA: This is a different set of questions  
19 and answers, your Honor.

20 THE COURT: At a different topic?

21 MS. KEDIA: At a different proceeding, Judge.

22 THE COURT: A different topic?

23 MS. KEDIA: No, a different --

24 MS. MAYER: And he has already answered it,  
25 Judge.

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1                   THE COURT: Yes, sustained.

2 BY MS. KEDIA:

3 Q. Mr. Floridia, where did you see Mr. Campanella that  
4 day on the 13th of July?

5 MS. MAYER: Objection, asked and answered.

6 THE COURT: Sustained.

7 BY MS. KEDIA:

8 Q. Mr. Floridia, you said you could have done a lot of  
9 things.

10                  Do you have any recollection of what you did on  
11 that day?

12 MS. MAYER: Objection.

13 THE COURT: Rephrase the question.

14 BY MS. KEDIA:

15 Q. Do you have a recollection of what you actually did  
16 on July 13th, 2001?

17 A. Yes. I seen Joe about, by the office. And I went  
18 and called Chickie, and told him where I was. And he came  
19 down. He got in the car. And I noticed he adjusted the  
20 gun by his waistband. And then we started driving around.

21 Q. When you saw Joe by the office, had you seen him or  
22 his car prior to that?

23 MS. MAYER: Objection. Asked and answered three  
24 times, Judge.

25 THE COURT: Sustained.

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1 BY MS. KEDIA:

2 Q. Had you seen him at the gym?

3 MS. MAYER: Objection.

4 THE COURT: Sustained.

5 MS. KEDIA: I haven't asked that question or got  
6 an answer, your Honor.

7 THE COURT: Come on up.

8 (The following occurred at sidebar.)

9 THE COURT: We have been through this five times  
10 now. He had said, maybe four questions ago, that he could  
11 have picked him up at the gym. He could have picked him  
12 up at the beach. One thing is for sure, he was at the  
13 office. And he saw him there. And he saw his car there.

14 Don't keep asking these questions over and over  
15 again. He has already admitted that the prior testimony  
16 he could confirm that. Move on, off of this topic.

17 MS. KEDIA: Your Honor, if I may respond? He  
18 has testified at a prior trial that he did go to the gym  
19 that day and he did see him there. He also testified at a  
20 different prior proceeding where he first saw Joseph  
21 Campanella was at the beach. So his testimony --

22 THE COURT: It doesn't say first in any of the  
23 questions there.

24 MS. MAYER: If I may be heard on this?

25 THE COURT: Yes.

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1 MS. MAYER: My objection is regardless of what  
2 it says in the transcript, this witness was read one prior  
3 proceeding, and he adopted it.

4 Then, without reading the prior proceeding,  
5 Ms. Kedia told him the substance of the prior proceeding,  
6 and he adopted it. He said, *I could have said that*, which  
7 is why I objected to her reading it.

8 If he adopts it, she then read it line by line.  
9 You pick whatever method you want. In this particular  
10 instance, she asked him the question. He adopted it. Now  
11 we're done with it.

12 He said not just one time -- about one time,  
13 seeing his car by the beach he also said, when confronted  
14 with, *Could you have said that it was at the gym*, in fact,  
15 and he said, yes.

16 So she has all three of the different answers in  
17 there. That is my objection. It doesn't matter first or  
18 not first. She got them -- both of them in there, that is  
19 proper. It has now be answered three times.

20 MS. KEDIA: Your Honor, what this witness says  
21 in response to the time I could have because on many  
22 occasions I did different things.

23 What he testified to at the Spataro trial,  
24 specifically what he did when he was asked, directed his  
25 attention to direct examination, directed his attention to

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1       July 13th, 2001: What you did that particular day? Not I  
2       could have done this, I might have done this. And he  
3       testified specifically that he did something differently  
4       than what he is saying today.

5                     THE COURT: He adopted it?

6                     MS. KEDIA: No, he is saying, I could have,  
7       because I might have done it on any number of occasions,  
8       Judge.

9                     THE COURT: Move on. The objection is  
10      sustained. A new topic.

11                    (The following occurred in open court.)

12      BY MS. KEDIA:

13      Q. Mr. Floridia, on the 13th of July, when you saw  
14      Joseph Campanella at his medical office, that was at what  
15      time?

16      A. It was in the afternoon.

17      Q. At approximately what time?

18      A. I don't remember the time, but I know it was in the  
19      afternoon.

20      Q. Where did you first notice him?

21      A. Well, his door to his office was open. And I thought  
22      I seen him in there.

23      Q. You could actually physically see inside?

24      A. Oh, yeah.

25      Q. And was this before or after you called Chickie

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1 DeMartino?

2 A. Oh, before.

3 Q. And how long had you been there that day?

4 A. Well, you see, I would -- I would drive around the  
5 block. I would because I didn't just stop in front of his  
6 office and look in. You know, like really -- I would  
7 drive by, so, you know, he wouldn't -- you know, he  
8 wouldn't see me looking in. So every time I drove by, I  
9 got a better glimpse of what was inside the office.

10 Q. So you mean you kept circling?

11 A. Yes.

12 Q. And how long of a period of time was this?

13 A. I don't really remember, but I drove around a few  
14 times.

15 Q. When did you call Chickie DeMartino?

16 A. Well, after I thought that Joe was in there -- I  
17 spotted him, I called Chickie.

18 Q. Were you with anyone else that day?

19 A. No.

20 Q. You were alone?

21 A. By myself.

22 Q. Where had you been prior to seeing Joseph Campanella  
23 at his office?

24 A. That day?

25 Q. Yes.

Floridia - Cross/Ms. Kedia

2496

1 A. I don't remember.

2 Q. You have no recollection?

3 A. No.

4 MS. MAYER: Objection.

5 BY MS. KEDIA:

6 Q. Had you seen Chickie DeMartino that day prior to  
7 having called.

8 A. I don't remember.

9 Q. When you called Chickie DeMartino, how long did it  
10 take for him to come to the office?

11 A. I really don't remember.

12 Q. Well, do you recall -- do you have any recollection  
13 of how long it took?

14 A. It could have took like a half hour at the most, you  
15 know, 45 -- you know, we all lived in the neighborhood.  
16 So -- I know it wasn't that long.

17 Q. It wasn't that long?

18 A. I don't think so, no.

19 Q. And do you recall testifying at a prior trial,  
20 proceeding and giving this -- being asked this question  
21 and giving this answer?

22 MS. MAYER: Can we have a page?

23 MS. KEDIA: It is GF-19, 3500 GF-19, page 2665,  
24 starting at page 2664.

25 "Question: How long did it take you to get from

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1 the beach to the office?

2 MS. MAYER: Objection.

3 THE COURT: Ms. Kedia?

4 MS. KEDIA: I'm sorry. I'm will go to the next  
5 page.

6 THE COURT: Let's start on 2665.

7 BY MS. KEDIA:

8 Q. Line 18.

9 "Question: Was this a pay phone out on the  
10 street or a grocery store? Where was this particular  
11 phone? Do you remember?

12 "Answer: --"

13 MS. MAYER: Judge, can we just move to the  
14 relevant point?

15 THE COURT: Yes.

16 BY MS. KEDIA:

17 Q. "Answer: Yeah, well, it was on the corner of  
18 86th Street and 17th Avenue.

19 "Question: Do you recall when you made that  
20 call approximate time now that we've gone over the events?

21 "Answer: The daytime.

22 "Question: It would have to be some time  
23 between 2:30 and when?

24 "Answer: After noon.

25 "Question: Let's say a half hour after, an hour

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1 after you left the beach area with Mr. Campanella?

2 MS. MAYER: Objection. Can we come up, please?

3 THE COURT: Come on up.

4 (The following occurred at sidebar.)

5 THE COURT: The relevant portion is at page  
6 2266, and it is:

7 "Question:" -- starting at line 9, "He comes  
8 down. How long did it take him -- did it take for him to  
9 come down after you reached him on the telephone?

10 "Answer: It took him a little while."

11 MS. MAYER: My objection, Judge, and I apologize  
12 for keep coming up because I don't want to waste the  
13 jury's time, either. But we started this when I objected,  
14 on page 2262?

15 MS. KEDIA: I'm sorry. I started at the wrong  
16 page.

17 THE COURT: All right. Come on. We won't be  
18 arguing about -- soon we'll be arguing about commas and  
19 periods. You have an objection. Start on line 9 and  
20 let's move on.

21 (The following occurred in open court.)

22 THE COURT: The objection is sustained.

23 BY MS. KEDIA:

24 Q. Mr. Floridia, do you recall at a prior proceeding  
25 being asked these questions and giving these answers,

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1 starting at line 9 on page 2666.

2 "Question: He comes down. How long did it take  
3 for him to come down after you reached him on the  
4 telephone?

5 "Answer: It took him a little while. I told  
6 him I was going to be parked on 84th. There is a little  
7 grocery store on 84th and 17th. I remember specifically  
8 because I set up my rearview mirror to look at -- Joe's  
9 was on 83rd, between 82nd and 83rd. We set up our rear  
10 view mirror to see if he would leave the place. I kept an  
11 eye on his business.

12 "Question: How long do you recall it took  
13 before Mr. DeMartino got down here?

14 "Answer: I really don't remember. I know  
15 eventually after the call he came down.

16 "Question: It wasn't a short period. It was  
17 more like a half hour, an hour, something like that?

18 "Answer: It could have been around there.

19 "Question: But your best recollection is it  
20 took a while? That is your best recollection?

21 "Answer: It took around that time, you know."

22 Do you recall being asked those questions and  
23 giving those answers?

24 A. I think I gave the same answer now.

25 Q. Well, it took some time for Mr. DeMartino to get

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2500

1 there. Right?

2 MS. MAYER: Objection.

3 THE COURT: Sustained.

4 BY MS. KEDIA:

5 Q. And what were you doing during that period of time?

6 A. I was just keeping an eye on Joe, making sure that he  
7 didn't leave. And if he left, then, you know, Chickie  
8 would have came down for no reason.

9 Q. Now when -- when Mr. DeMartino showed up, you said  
10 you were parked. Right?

11 A. Can you repeat that?

12 Q. When Mr. DeMartino showed up, you were parked at some  
13 location. Right?

14 A. Correct.

15 Q. And he parked next to you?

16 A. I don't remember. I seen him walking towards me. I  
17 don't remember him parking his car. I just remember him  
18 getting into my van.

19 Q. Had there been prior occasions where Mr. DeMartino  
20 actually came down because you called him and said I've  
21 got Joe?

22 A. Actually, no.

23 Q. This was the only occasion?

24 A. That was -- yeah from what I remember, yes.

25 Q. And was the plan, as far as you knew, to kill Joe

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2501

1       that day, the 13th of July?

2       A.   Well, it is not like we went over -- you know, when  
3           he was going to shoot him. You know, we didn't go over  
4           that -- those details.

5                   I just told him -- you know, he told me to call  
6           him when he was at certain spots. And I would call in and  
7           check in with Chickie. And then that day I checked in, I  
8           told him, *Listen, I'm by the office.*

9                   And he said, *Okay, I'm going to come.* And that  
10          is how it happened.

11          Q.   So prior to your calling him on that occasion and  
12           telling him you're by the office, there was absolutely no  
13           plan as to when and how this was going to occur?

14          A.   Oh, no, not that I know of. I just knew that it was  
15           going to happen. I just didn't know when.

16          Q.   And he didn't tell you even on that day whether it  
17           was going to happen on that day?

18          A.   Well, no. He got in the car and he had a gun with  
19           him. So, you know, I didn't need him to spell it out for  
20           me. You know, he looked like he wanted to do it that day.

21          Q.   So your view is that that was the plan, that he was  
22           going to do it on that day?

23          A.   At that moment, yes. That I was like, okay. It's  
24           going down now.

25                   THE COURT: Ms. Kedia, can we stop now?

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2502

1                   Ladies and gentlemen, we'll conclude for the  
2 day.

3                   Do not discuss the case with anyone. If anyone  
4 tries to talk to you about anything that is connected with  
5 the case, please report it to me or Mr. Baran, and don't  
6 discuss it with the other jurors.

7                   Don't read or listen to anything that might be  
8 reported in the media. And also, don't do any research or  
9 read anything.

10                  You are excused and I'll see you 9:30 tomorrow  
11 morning. No fire drill, and we'll be all set to go,  
12 hopefully, by 9:30.

13                  (The jury left the courtroom at 5:02 p.m.)

14                  THE COURT: Okay. You can step out.

15                  (Whereupon the witness left courtroom.)

16                  THE COURT: Tomorrow we'll be done with this  
17 witness. You will have given me a list, Mr. Goldberg, of  
18 witnesses.

19                  Any estimates on how long they are going to be  
20 taking?

21                  MR. GOLDBERG: Most of those witnesses are  
22 fairly short. Salvatore Vitale is a cooperating witness,  
23 and may be lengthy.

24                  THE COURT: How long do you expect your direct  
25 to be?

**Floridia - Cross/Ms. Kedia**

2503

1                   MR. BURETTA: No more than two hours, Judge,  
2 probably less than that.

3                   THE COURT: I'll see you folks tomorrow morning.  
4 Have nice evening.

5                   MR. LaRUSSO: You, too, your Honor.

6                   (Whereupon the trial was adjourned at 5:02 p.m.)

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2504

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I N D E X

2

GIOVANNI FLORIDIA 2273

3

DIRECT EXAMINATION (Continued) 2273  
BY MS. MAYER

5

CROSS-EXAMINATION 2357  
BY MS. KEDIA

6

7

8

EXHIBITS

9

Government's Exhibit 2 Z received in evidence 2313

10

Government Exhibit 3500 GF 1 received in 2351  
evidence

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